

Royal Northwest Mounted Police
CANADA

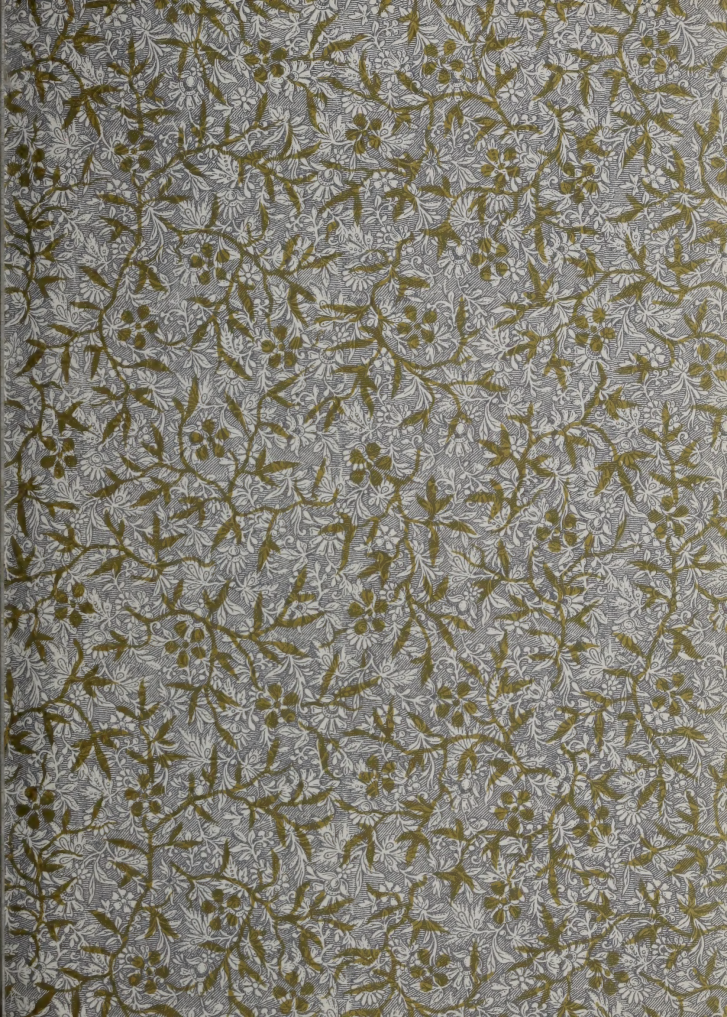


CONSTABLES MANUAL

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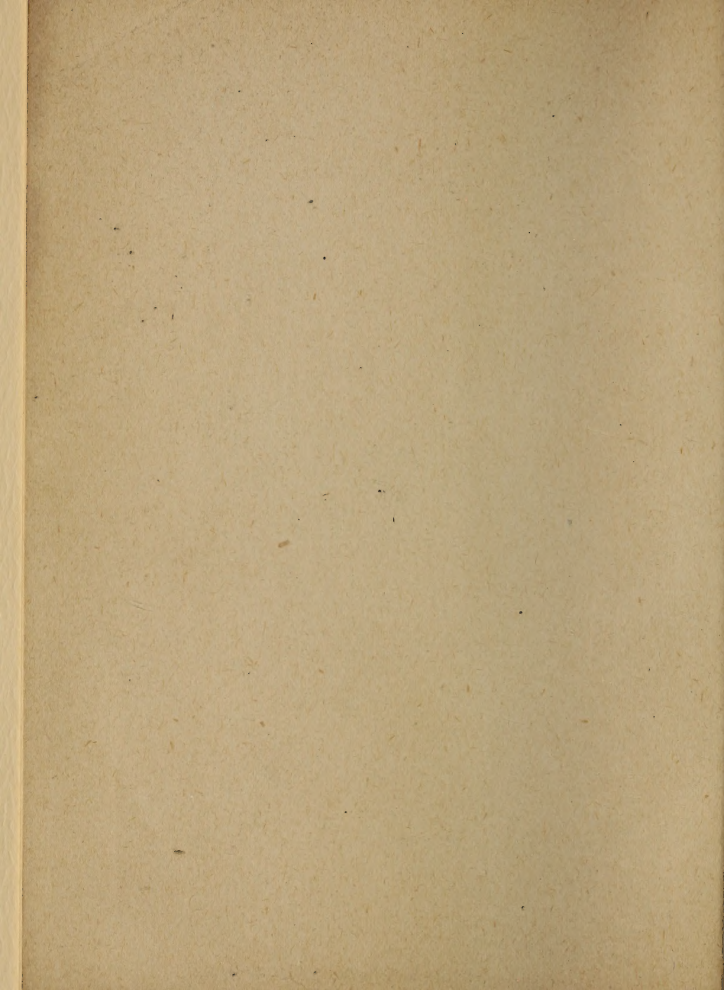


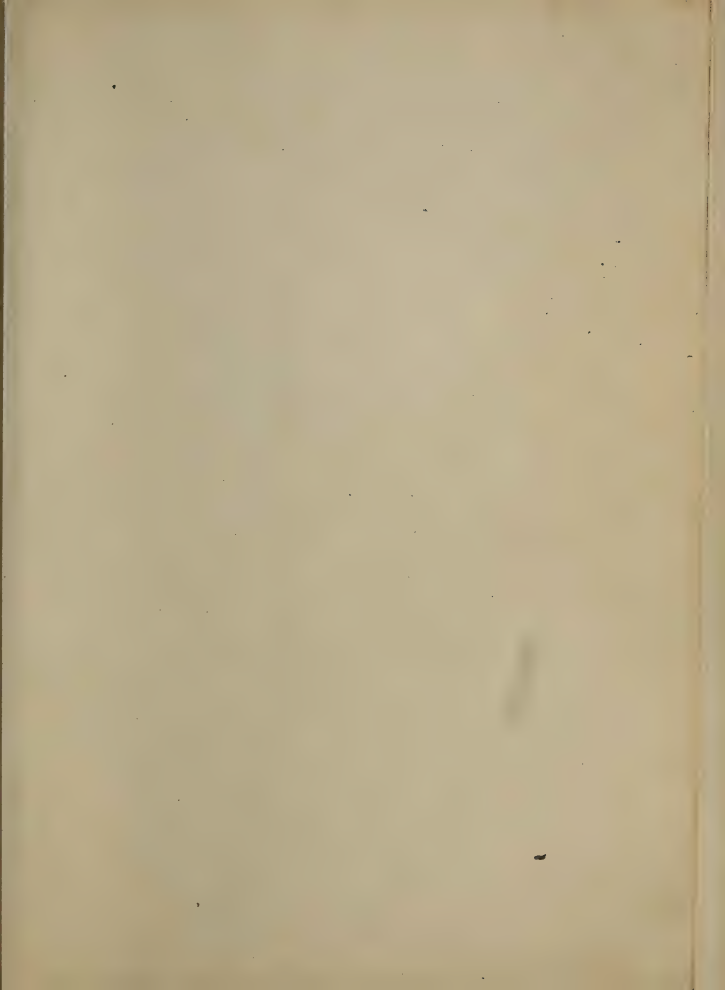
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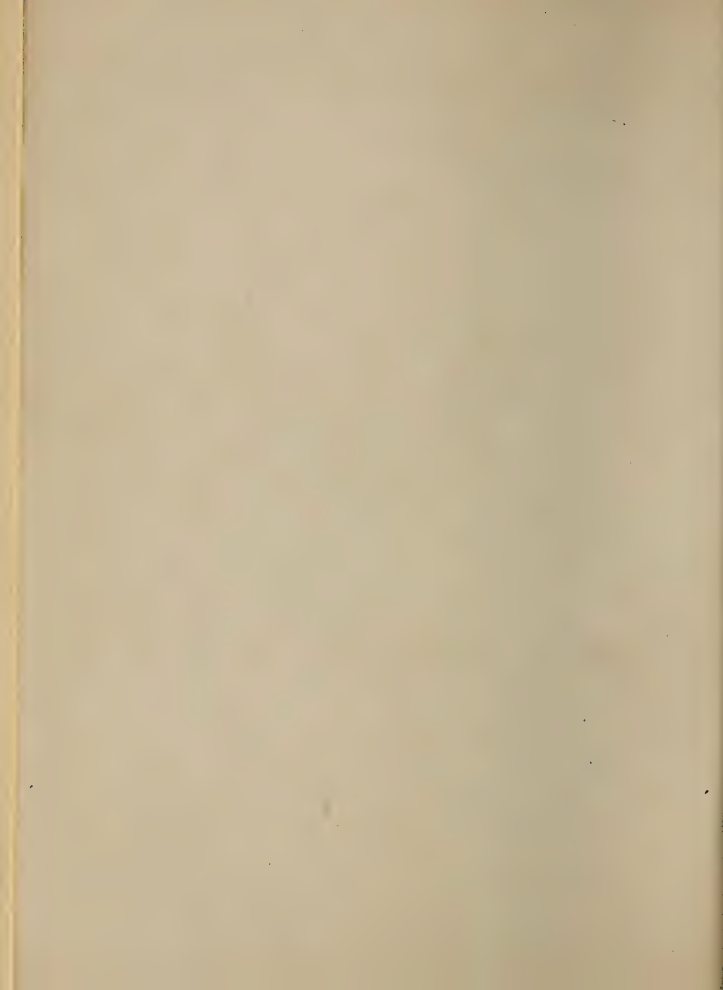
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Royal Northwest Mounted Police

CANADA



CONSTABLES MANUAL

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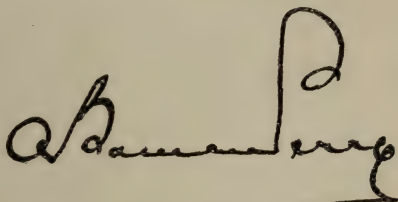
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1907

PREFACE

THIS Manual is issued to the members of the Royal North-West Mounted Police for their information and guidance.

An intelligent knowledge of his varied duties being absolutely necessary for the efficient performance thereof, it is expected that each member will make himself fully conversant with the details of the manual in conjunction with the Criminal Code and other Statutes of Canada and the laws of the Province or Territory in which he may be serving.

A large, stylized handwritten signature in dark ink, likely belonging to the Commissioner of the Royal North-West Mounted Police.

Commissioner,

R. N. W. M. P.

HEADQUARTERS,

REGINA, SASK.,

June, 1907.

ERRATA

Page 15, lines 8 and 9. *Omit* "the provinces of Saskatchewan and Alberta." (Amendment 1907.)

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MANUAL

FOR THE

ROYAL NORTH WEST MOUNTED POLICE OF CANADA.

(The letters C. C. when used mean Criminal Code.)

The Members of the Force derive their powers as Peace Officers from, and are governed by "The Royal North West Mounted Police Act," Chap. 91, R. S. C., 1906.

The Force exercises jurisdiction in the Provinces of Alberta, Saskatchewan, the North West Territories, and the Yukon Territory.

It is its duty, subject to the orders of the Commissioner,

(a) To enforce the Criminal and other laws of Canada.

(b) To enforce the Statutes or Ordinances of the Provinces or Territories in which it is stationed.

(c) To attend upon Judges, Magistrates, and Justices of the Peace, when specially required, and to execute all warrants, and perform all duties and services, in relation thereto.

(d) To perform all duties which may be lawfully performed in relation to the escort and conveyance of convicts, and other prisoners, and lunatics to or from any Courts, places of punishment or confinement, Asylums, or other places. (Sec. 18, R. N. W. M. P. Act.)

(e) Upon information, or upon reasonable grounds of suspicion, and without the necessity of any intervention or process of law, to search for, seize, and destroy, intoxicants in the N. W. T. as at present constituted, and to any territory where the provisions of the "North West Territories Act," Chap. 50, R. S. C., relating to the prohibition of intoxicants, remain in force. (Sec. 19, R. N. W. M. P. Act.)

The Force shall not be charged with any duties under or in connection with any Municipal By-laws, except in the Yukon, where it may be charged with any duties under or in connection with any Municipal By-laws. (S. S. 2, S. 20, R. N. W. M. P. Act.)

Under the 91st clause of the British North America Act, or Constitution of Canada, the Parliament of Canada is given the sole and exclusive right of making laws on the following subjects:—

1. The Public Debt and Property.
2. The regulation of Trade and Commerce.
3. The raising of money by any mode or system of taxation.
4. The borrowing of money on the public credit.

5. Postal service.
6. The census and statistics.
7. Militia, military and naval service and defence.
8. The fixing and providing for the salaries and allowances of civil and other officers of the Government of Canada.
9. Beacons, lighthouses, buoys, and Sable Island.
10. Navigation and shipping.
11. Quarantine, and the establishment and maintenance of Marine hospitals.
12. Sea-coast and Inland Fisheries.
13. Ferries between a Province and a British or foreign country, or between two Provinces.
14. Currency and coinage.
15. Banking and the incorporation of Banks, and the issue of paper money.
16. Savings Banks.
17. Weights and measures.
18. Bills of exchange, and promissory notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and insolvency.
22. Patents of invention and discovery.

23. Copyrights.
24. Indians and land reserved for the Indians.
25. Naturalization.
26. Marriage and divorce. (In the Provinces of Nova Scotia, New Brunswick, and Prince Edward Island, divorce courts existed before Confederation in 1867, and continue to exercise their powers. The Supreme Court of British Columbia holds that it possesses all the jurisdiction conferred on the Court of Divorce in England.)
27. The Criminal Law, except the Constitution of the Courts of Criminal Jurisdiction, but including the procedure in Criminal matters.

Under the 92nd clause of the same Act, the Legislature in each Province may exclusively make Laws in relation to the subjects, as follows:—

1. The amendment, from time to time, notwithstanding anything in the British North America Act, of the Constitution of the Province, except as regards the office of Lieutenant-Governor.
2. Direct taxation within the Province, in order to the raising of the revenue for Provincial purposes.
3. The borrowing of money on the sole credit of the Province.

4. The establishment and tenure of Provincial offices, and appointment and payment of Provincial officers.
5. The management and sale of Public Lands belonging to the Province, and of the timber and wood thereon, except the Public Lands of Manitoba, Alberta, the North West Territories, and the Yukon, which are administered by the Dominion Government.
6. The establishment, maintenance and management of public and reformatory prisons, in and for the Province.
7. The establishment, maintenance and management, of Hospitals, Asylums, charities and eleemosynary institutions in and for the Province, other than Marine Hospitals.
8. Municipal institutions in the Province.
9. Shop, saloon, tavern, auctioneer and other licenses, in order to the raising of a revenue for Provincial, local, or Municipal purposes.
10. Local works and undertakings other than such as are of the following clauses:—
 - (a) Lines of steam, or other ships, railways, canals, telegraphs, and other works and undertakings, connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province.

- (b) Lines of steamships between the Province and any British or foreign country.
- (c) Such works as, although wholly situated within the Province, are before or after their execution, declared by the Parliament of Canada to be for the general advantage of Canada, or for the advantage of two or more of the Provinces.
- 11. The incorporation of companies with Provincial objects.
- 12. Solemnization of marriage in the Province.
- 13. Property and civil rights in the Province.
- 14. The administration of justice in the Province, including the Constitution, maintenance and organization of Provincial Courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those courts.
- 15. The imposition of punishment by fine, penalty or imprisonment for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.
- 16. Generally all matters of a merely local or private nature in the Province.

The Yukon Territory was created, and is governed by "The Yukon Territory Act." Chap. 63, R. S. C. 1906.

The Chief Executive Officer of the Territory is styled the Commissioner of the Yukon Territory.

While stationed in the Yukon Territory, every commissioned officer of the Force shall *ex officio* have, possess and exercise, all the powers of a Justice of the Peace, or of two Justices of the Peace under any Laws or Ordinances, civil or criminal, in force in the Territory.

All persons possessing the powers of two Justices of the Peace, in the Yukon Territory, shall also be Coroners in and for the Territory.

The North West Territories as at present constituted, are governed by "The North West Territories Act," Chap. 62 of the Revised Statutes, 1906, as amended by the North West Territories Amendment Act, 1907.

The chief executive officer is styled "The Commissioner of the North West Territories," and the office at the present time is held by the Comptroller of the R. N. W. M. Police.

While in the North West Territories, the Commissioner of the Force shall have all the jurisdiction, powers, and authority of a Stipendiary Magistrate, appointed under Sec. 32 of the N. W. T. Act.

The Commissioner and Assistant Commissioner of the R. N. W. M. P. shall be Coroners in and for the North West Territories. (Sec. 60, N. W. T. Act.)

While in the North West Territories, every commissioned officer of the Force shall, *ex officio*, have,

possess, and exercise, all the jurisdiction, powers and authority of a Justice of the Peace, and of two Justices of the Peace, under any Laws or Ordinances in force in the Territories.

The North West Territories now comprise the Territories formerly known as Rupert's Land, and the North Western Territory, except such portions thereof as form the Provinces of Manitoba, Saskatchewan, and Alberta, and the Yukon Territory, together with all British Territories and possessions in North America, and all islands adjacent to any such Territories or possession, except the colony of Newfoundland and its dependencies.

Every ship, vessel or boat on which any intoxicating liquor or intoxicant is imported or conveyed into or through or over any portion of the Territories contrary to the provisions of the North West Territories Act shall be forfeited to His Majesty, and may be seized and dealt with accordingly. (S. 93, N. W. T. Act.)

Constables.

A constable must readily and strictly obey all lawful orders.

He must be civil and respectful in his demeanour and conduct to the public, giving the best answers he can to the numerous questions which will be put to him, and showing at all times a readiness to do all in his power to oblige consistently with his duty.

He is to speak the truth at all times and under all circumstances, and when called upon to give evidence, to state all he knows respecting the case without fear or reservation, and without any desire to influence the result, either for or against the prisoner.

To enable him to speak quite confidently and to prevent the possibility of his evidence being shaken, he is to jot down at the time in his memorandum book dates and other particulars respecting arrests or occurrences, to which he can always refer.

When called upon by a person to take another into custody, he must be guided in a great measure by the circumstances of the case and the nature of the charge or offence; but if he have any doubt as to how he ought to act, the safest course is to ask all the persons concerned to go with him to the nearest justice, who will direct the constable.

If a constable is called upon to act, he must do so with energy, promptness and determination, for, if he wavers or doubts, the criminal may escape, or the opportunity to render assistance may be lost.

Authority.

The Royal North West Mounted Police Force shall, for the purposes and the performance of the duties assigned to them by or under the authority of this Part, in addition to the powers and duties conferred or imposed by this Part, have all the powers, authority, protection and privileges which any Constable has by law. (Sec. 20, R. N. W. M. P. Act.)

The authority of constables is general and special, the office partaking of the nature of both. The general authority accrues by virtue of their own right as officers; the special authority accrues by the right of some one else. All constables are conservators of the peace by right of their office, and are also the immediate and proper officers of justices of the peace.

Constables, by virtue of their inherent powers, may act without warrant in the prevention of crime, and for the arrest of offenders. See Warrant, Arrest Without.

As the immediate and proper officers of justices of the peace, constables act under, and are bound to obey, the lawful mandates of the magistrates of their district or territory.

Temper.

A perfect command of temper is absolutely indispensable in the proper discharge of the duty of constable.

Harsh language on the part of constables to the public and persons in custody is not to be permitted.

Constables, if rudely treated themselves, are not justified in retaliating. All duties must be performed with firmness, but at the same time with moderation. Words, in themselves not objectionable, frequently give offence from the tone of voice in which they are uttered.

A constable must not allow himself to be moved or excited by any language or threats, however insolent.

The cooler he keeps himself, the more power he will have over his assailant.

Idle or silly remarks are unworthy of notice.

Forbearance and moderation will always be appreciated by the public.

Detachment Duty.

Non-commissioned officers and men on detachment should as far as possible make themselves acquainted with the names of all persons in the district in which they are stationed, their locations, reputations, property, if owners of cattle or horses, their brands, and if owners of mining property, the claim numbers, &c., and generally all matters concerning them. In addition they should learn all trails, important land marks and such like.

This information can be obtained in a quiet way, without exciting comment, and asking unnecessary questions, and will be found most valuable in the detection of crime.

Constables should make it a point to hear and see all, and to talk as little as possible about their business.

Men on detached duty must be careful about their dress and appointments, taking care that they are at all times neat and tidy, and smart and active in appearance. Some men think that as soon as placed on detachment work, they are privileged to appear in dirty uniform, in fact to wear anything; this is a wrong impression, and creates a bad opinion of the discipline of the force in the public mind. The detachment quarters, stables and outbuildings should be kept tidy and neatly arranged. Police outposts should be a pattern of neatness and cleanliness. Stores, saddlery, harness, &c. must be carefully looked after and hung up, as far as possible, in such manner as will enable their being easily examined and checked by an inspecting officer. A little care in this respect prevents articles being mislaid, damaged or rendered unfit for service.

It should be borne in mind that the appearance and condition of detachment horses speaks for itself. Horses well looked after testify to that fact.

Informations and Complaints.

Anyone who upon reasonable or probable grounds, believes that any person has committed an offence, may make a complaint or lay an information in writing and under oath before any magistrate having authority to issue a warrant or summons against such accused person.

The information and complaint should contain the informant's name, occupation and address, the date

and place of preferring it, and the name and description of the person charged.

The charge must be stated in such distinct terms that the accused may know exactly what he has to answer, for he cannot be convicted of a different offence from that stated in the information.

A distinction exists between informations and complaints: When the proceeding is one taken against a party charged with a criminal act or offence, for which he is liable on conviction to imprisonment, fine or other punishment, an information is laid, and when the proceeding is one against a person liable by law to have an order made upon him to pay a sum of money or to do some act which he has illegally failed, neglected or refused to do, a complaint is made. Generally speaking, a complaint is made when a summons only is issued, and an information is laid when a warrant is required. This, however, is not a hard and fast rule.

An information shall be for one offence, and not for two or more offences.

It may be in the Form 3, C. C. Schedule, or to like effect. (C. C. 654, 2.)

It must be in writing which includes signature by the Complainant and Justice, and sworn to (C. C. 654), or may be affirmed if the Complainant objects to taking an oath (Can. Evid. Act, R. S. C. 1906, Sec. 15, Chap. 145), before a summons or warrant can be legally issued.

Informations, Summary Convictions Cases.

By Sec. 711 C. C., procedure is to be the same as that provided for preliminary enquiries for indictable offences.

Are of two classes :—

1. Those in which an order may be made for the payment of money merely, or for the performance of some act.

2. Penal offences, in which by some statute it is provided that the Justice may summarily convict and punish the offender. (Code 710, 2.)

In the first class the complaint need not be in writing, unless required by some particular Act upon which the complaint is founded, and if only a summons is to be issued. (Code 710.)

In the second class the information need not be on oath or affirmation unless required by a particular statute relating to the offence (Code 710, 2), but it must be in writing.

A warrant of arrest is never to be issued in any case unless the information is under oath, notwithstanding the provisions of Code 710-2, as the recital in the form of warrant, No. 6 to the C. C., states that an information under oath had been laid: *R. v. McDonald*, 3 Can. Cr. Cas. 287.

If the particular statute on which a case is founded, specially requires it, the information must

be on oath, and in *all cases* it is a proper safeguard to require any person who charges another with an offence, to pledge his oath to the *bona fides* of the charge. (Seager.)

Limitations.

In the case of any offence that is punishable on summary conviction, if no time is laid down, the information must be laid within six months, but in the provinces of Saskatchewan and Alberta, the North West Territories and the Yukon Territory, the time within which such complaint or information may be laid shall be extended to twelve months from the time when the matter of the complaint arose. Sec. 1142 C. C.

Under the common law there is no time limited for the prosecution of proceedings at the suit of the Crown, so that in all the proceedings, criminal cases in which the time is not limited by statute may be prosecuted during the life of the person charged at any length of time after the offence was committed.

See Section 1140, Criminal Code, for the time within which prosecutions must be taken in respect of the various offences set out therein.

Arrest.

An arrest is the apprehending or detaining of the person in order to be forthcoming to answer an alleged or suspected crime. The constable should not merely content himself with securing the offender, but should

actually arrest him, so that if he escape or is rescued by others, he or they may be subject to the penalties of escape or arrest. To constitute an arrest the party should, if possible, be touched by the constable, who should say, I arrest you, or, you are my prisoner. Bare words will not make an arrest without laying hold of the person or otherwise confining him. But if a Peace Officer come into a room and tell the party he arrests him, and locks the door, this is an arrest, for he is in custody of that officer; or if in any other way the person submit himself by word and action to be in custody, it is an arrest. (Patton.) See C. C. 39.

Every Peace Officer, upon demand made upon him, must shew the warrant under which he arrests or distrains. (Wilson, 51-52.) See C. C. 40.

If the party snatch or take the warrant, the constable has a right to force it from him, using no unnecessary violence in doing so.

Where a constable has made an arrest with or without warrant, he should as soon as possible bring the party before the justice according to the terms of the warrant; and if guilty of any unnecessary delay he will be liable to punishment; but if the arrest be made in or near the night, or at a time when the prisoner cannot well be brought before the justice, or if there be danger of rescue, or the party be ill and unable then to be brought up, the constable may secure him in a gaol, lock-up house, or other safe place, till the next day, or until it may be reasonable to bring him up before the justice; but a warning is

again given against any unreasonable detention. (Patton.) In case a lock-up be found most convenient, it will be necessary to employ a constable to watch the prisoner at night, unless the municipality in which the lock-up is situate keep a watchman for this purpose.

711. (Summary Convictions.) It is laid down that where a warrant is issued in the first instance, the justice issuing it shall furnish a copy or copies thereof, and cause a copy to be served on each party arrested at the time of such arrest. C. C. 711.

Arrest under a warrant. C. C. 29, 30, 32, 33, 34, 36, 37.

29. Every one acting under a warrant or process which is bad in law, on account of some defect in substance or in form apparent on the face of it, if he, in good faith and without culpable ignorance and negligence, believes that the warrant or process is good in law, shall be protected from criminal responsibility to the same extent and subject to the same provisions as if the warrant or process were good in law, and ignorance of the law shall in such case be an excuse: Provided that it shall be a question of law whether the facts of which there is evidence may or may not constitute culpable ignorance or negligence in his so believing the warrant or process to be good in law.

30. Every peace officer who, on reasonable and probable grounds, believes that an offence of which

the offender may be arrested without warrant has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed that offence, is justified in arresting such person without warrant, whether such person is guilty or not.

32. Every one is justified in arresting without warrant any person whom he finds committing any offence for which the offender may be arrested, without warrant, or may be arrested when found committing.

33. If any offence for which the offender may be arrested without warrant has been committed, any one who, on reasonable and probable grounds, believes that any person is guilty of that offence, is justified in arresting him without warrant, whether such person is guilty or not.

34. Every one is protected from criminal responsibility for arresting without warrant any person whom he, on reasonable and probable grounds, believes he finds committing by night any offence for which the offender may be arrested without warrant.

36. Every one is justified in arresting without warrant any person whom he finds by night committing an offence.

2. Every peace officer is justified in arresting without warrant any person whom he finds lying or

loitering in any highway, yard or other places by night, and whom he has good cause to suspect of having committed, or being about to commit, any offence for which an offender may be arrested without warrant.

37. Every one is protected from criminal responsibility for arresting without warrant any person whom he, on reasonable and probable grounds, believes to have committed an offence and to be escaping from, and to be freshly pursued by those whom he, on reasonable and probable grounds, believes to have lawful authority to arrest that person for such offence.

Arrest without a warrant by any one.

646. Any one found committing any of the offences mentioned in the following sections may be arrested without a warrant by any one, that is to say:—

(a) Treason and treasonable offences.

(b) Offences respecting the reading of the Riot Act, and riotous destruction of or riotous damage to buildings.

(c) Administering, taking or procuring the taking of oaths to commit certain crimes or similarly with respect to taking all other unlawful oaths.

(d) Piracy, piratical acts or piracy with violence.

(e) Being at large while under sentence of imprisonment, breaking prison or escaping from custody, or from prison, or escaping from lawful custody.

(f) Unnatural offences.

(g) Murder, attempt to murder, accessory after the fact to murder, manslaughter, attempting to commit suicide.

(h) Wounding with intent to do bodily harm, wounding, stupefying in order to commit indictable offence, injuring or attempting to, by explosive substance, intentionally or wantonly attempting to injure persons on railways, preventing escape from wreck.

(i) Rape, or attempting to commit rape; defiling children under 14.

(j) Abduction of a woman.

(k) Theft by clerks and servants, etc.; theft by agents, etc.; public servants refusing to deliver up chattels, etc.; theft by tenants and lodgers; theft of testamentary instruments; theft of documents of title; theft of judicial or official documents; theft of postal matter; theft of election documents; theft of railway tickets; theft of cattle; theft of oysters; theft of things fixed to buildings or lands; stealing from the person; stealing in dwelling houses; stealing by picklocks, etc.; stealing in manufactories; stealing from ships, etc.; stealing from wreck; stealing on railways; bringing stolen property into Canada.

(l) Receiving property dishonestly obtained.

(m) Personation of certain persons.

(n) Aggravated robbery, robbery, assault with intent to rob, stopping the mail, compelling execution

of documents by force, sending letter demanding with menaces, demanding with intent to steal, extortion by certain threats.

(o) Breaking place of worship and committing an indictable offence; breaking place of worship with intent to commit an indictable offence, burglary, house-breaking and committing an indictable offence, house-breaking with intent to commit an indictable offence, breaking shop and committing an indictable offence, breaking shop with intent to commit an indictable offence, being found in dwelling house by night, being armed with intent to break a dwelling house, being disguised or in possession of housebreaking instruments.

(p) Forgery, uttering forged documents, counterfeiting seals, possessing forged bank notes, using probate obtained by forgery or perjury.

(q) Making, having or using instrument for forgery or uttering forged bond or undertaking, counterfeiting stamps, falsifying registers.

(r) Arson, attempt to commit arson, setting fire to crops, attempting to set fire to crops, attempt to damage by explosives, mischief on railways, injuries to electric telegraphs, etc., wrecking, attempting to wreck, interfering with marine signals, mischief to mines, mischief.

(s) Counterfeiting gold and silver coin, making instruments for coining, clipping current coin, possessing clipping of current coin, counterfeiting

copper coin; counterfeiting foreign gold and silver coin, uttering counterfeit current coin.

647. A peace officer may arrest, without warrant, any one who has committed or is found committing any of the offences mentioned in section 646 or in the following sections, that is to say:—

(a) Obtaining by false pretence, obtaining execution of valuable securities by false pretence.

(b) Cutting booms, or breaking loose rafts or cribs of timber or saw-logs; attempting to injure or poison cattle.

(c) Cruelty to animals, keeping cock-pit.

(d) Exporting counterfeit coin, possessing counterfeit current coin, possessing counterfeit foreign gold or silver coin, counterfeiting foreign copper coin.

3. A peace officer may arrest without warrant any one whom he finds committing any criminal offence, and any person may arrest without warrant any one whom he finds committing any criminal offence by night. C. C. 648.

4. Any one may arrest without a warrant a person whom he, on reasonable and probable grounds, believes to have committed a criminal offence and to be escaping from, and to be freshly pursued by, those whom the person arresting, on reasonable and probable grounds, believes to have lawful authority to arrest such person. C. C. 649.

5. The owner of any property on or with respect to which any person is found committing any criminal offence, or any person authorized by such owner, may arrest without warrant the person so found, who shall forthwith be taken before a justice of the peace to be dealt with according to law. C. C. 650.

Telegram, Arresting on.

The following is laid down for constables' guidance:—

1. That, on the receipt of a telegram professing to be from some known responsible, respectable person, whether concerned in the administration of justice or not, but more particularly if he be, the constable may proceed to make the arrest.

2. On receipt of a telegram from some unknown party the constable should not arrest without advising with the nearest justice of the peace, as to how he should act. If he advise an arrest, the constable may then make it.

3. If he have no time to advise, he must proceed most warily.

4. In no case, however, shall a telegram be acted upon if it be possible to test its genuineness by writing back or by telegram to the person professing to have sent it.

5. In no case should a telegram or letter from the United States, or from any country beyond this

Province, be acted upon for an offence committed beyond the Province, because the party complained of is not a criminal against our laws until proper information has been laid, and a warrant issued here for his apprehension; and then he may be proceeded against, either under the extradition treaty, or under the provisions of any of our own statutes, which are herein referred to. (Wilson.)

Summons and Subpoenas. C. C. 658, 672.

Every summons issued by a justice under this Act shall be directed to the accused, and shall require him to appear at a time and place to be therein mentioned. Such summons may be in the form No. 5 C. C. schedule, or to the like effect. No summons shall be signed in blank.

A summons cannot be issued on Sunday, it not being a ministerial, but judicial, act, and not allowed by Code 661 (3).

Summons must be issued by Justice who took the information. Code 655.

The summons must be signed and sealed by the justice issuing. It must be read over by the Constable, and if he finds any defect, he should take it to the Justice who issued it, for correction.

Copies or duplicates of summons in addition to the original are to be given to the Constable. The copy or duplicate is for service upon the person to whom addressed. The original must be returned to

the Justice with the Constable's certificate of service, as under, endorsed on its back.

Every such summons shall be served by a peace officer upon the person to whom it is directed, either by delivering it to him personally, or, if such person cannot conveniently be met with, by leaving it for him at his last or most usual place of abode with some inmate thereof apparently not under sixteen years of age.

The person by whom the summons is served as aforesaid shall attend at the time and place specified therein for the appearance of the accused, in order, if necessary, to prove the service.

The constable is expected to make an entry in his memorandum book of all the circumstances, and make no delay in serving the person named in the summons or subpoena, in order that he may be able to make oath or affirmation as to the service, either personally or otherwise, when served, and the hour and date of service as follows (Oke):—

CANADA. }
Province or Territory of } The deposition of J.N., constable
R. N. W. M. Police, taken upon oath before me, the undersigned,
one of His Majesty's Justices of the Peace for _____,
this _____ day of _____, A. D. 190____, who
saith that he served A.B., mentioned in the annexed (within)
summons (or subpœna), with a duplicate thereof on the
day of _____ last, personally (or by leaving the same for
the said _____ at his usual place of abode), with N.O., an
inmate thereof apparently not under sixteen years of age.

Before me.

J.S. } J.N.
J.P. }

Warrants, Arresting on.

When a warrant is placed in a constable's hands for execution, he should satisfy himself that it is under the hand and seal of the justices issuing same, that it is properly directed, viz.: "To all or any of the constables or other peace officers in the said Province or Territory." (C. C. s. 659, form No. 6.) It shall state shortly the matter of the information or complaint on which it is founded.

It shall name or otherwise describe the person against whom it has been issued.

It shall order the constable to apprehend the defendant, and to bring him before the justice issuing the warrant, or some other justice, to answer the said charge.

It need not be made returnable at any particular time, but may remain in force until it is executed.

If the warrant is found deficient in any particular it should be taken to the justice who issued it to have its defects rectified. The constable should make an entry in his memorandum book of the time of its receipt, and the necessary particulars.

The warrant should be executed with secrecy and despatch, and after execution the constable should endorse it with the date of its execution.

The constable should also ascertain from the warrant the nature of the offence, whether he knows the

party named in the warrant; if not, he should find out from the complainant the description, personal appearance, manner, dress, or any peculiarity by which he may be recognized, and it would be advisable for the constable, if possible, to take the complainant or some person who could point out the accused.

A warrant to apprehend may be issued and executed on a Sunday or statutory holiday, (Code 661, 3), and by night or day. (4 Russell, 110.)

The accused should be brought without delay before the proper magistrate, and it is the duty of the magistrate to make such arrangements with the officer who is entrusted with the execution of the warrant, that the case be brought on to a hearing as speedily as possible after the arrest. To detain an accused person for an unreasonable time would be very improper, illegal and unjust.

If the accused person escape, go into or reside in another Province or Territory, it will be necessary for the constable to have the warrant endorsed by a justice having jurisdiction where the accused is. The constable, therefore, will wait upon a justice having such jurisdiction, who will endorse the warrant on the constable making oath as to the signature of the justice who issued the warrant (s. 662), or, in case of fresh pursuit, at any place in the next adjoining territorial division, and within seven miles of the border of the first division, without having the warrant backed. Under C. C. 661, any justice may grant and

issue a warrant to apprehend any one charged for an indictable offence, or a search warrant on a Sunday as well as on any other day.

(Form for backing Warrant No. 8, C. C., Sec. 662.)

CANADA.

Province of.....

Whereas proof upon oath has this day been made before me, J.T., a Justice of the Peace in and for the said Province, that the name of H.A.T. to the within Warrant subscribed, is of the handwriting of the Justice of the Peace within mentioned: I do hereby authorize J.J., constable (or other rank, as the case may be) R. N. W. M. P., who brings to me this Warrant, and all other persons to whom this Warrant was originally directed, or by whom it may be lawfully executed, and also all peace officers of the said (name district), to execute the same within the last mentioned (name district).

Given under my hand this.....day of....., in the year A. D..... at..... in the Province aforesaid.

(Signed) W. C.,

A Justice of the Peace in and for the (name jurisdiction).

Before returning the warrant to apprehend to the magistrate or Police Court, the constable will endorse the following on the back thereof:—

"I certify that I executed the within warrant on..... the....day of.....19.... at.... o'clock (A. or P. M.) at(place.....).

Name.....

Rank.....

R. N. W. M. P.

Duty of Persons Arresting. C. C. 40.

It is the duty of every one executing any process or warrant to have it with him, and to produce it if required.

It is the duty of every one arresting another, whether with or without warrant, to give notice, where practicable, of the process or warrant under which he acts, or of the cause of the arrest.

A failure to fulfil either of the two duties last mentioned shall not of itself deprive the person executing the process or warrant, or his assistants, or the person arresting, of protection from criminal responsibility, but shall be relevant to the inquiry whether the process or warrant might not have been executed, or the arrest effected, by reasonable means in a less violent manner.

Arresting the Wrong Person. C. C. 28.

Every one duly authorized to execute a warrant to arrest, who thereupon arrests a person, believing in good faith and on reasonable and probable grounds that he is the person named in the warrant, shall be protected from criminal responsibility to the same extent and subject to the same provision as if the person arrested had been the person named in the warrant.

Every one called on to assist the person making such arrest, and believing that the person in whose arrest he is called on to assist, is the person for whose arrest the warrant is issued, and every gaoler who is required to receive and detain such person, shall be protected to the same extent and subject to the same provisions as if the arrested person had been the person named in the warrant.

Force Used in Executing Sentence or Process or in Arrest. C. C. 39, 41, 42, 43, 44, 45, 52.

39. Every one justified or protected from criminal responsibility in executing any sentence, warrant or process, or in making any arrest, and every one lawfully assisting him, is justified, or protected from criminal responsibility, as the case may be, in using such force as may be necessary to overcome any force used in resisting such execution or arrest, unless the sentence, process or warrant can be executed or the arrest effected by reasonable means in a less violent manner.

41. Every peace officer proceeding lawfully to arrest, with or without warrant, any person for any offence for which the offender may be arrested without a warrant, and every one lawfully assisting in such arrest, is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by such flight, unless such escape can be prevented by reasonable means in a less violent manner.

42. Every private person proceeding lawfully to arrest without warrant any person for any offence for which the offender may be arrested without warrant, is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by flight, unless such escape can be prevented by reasonable means in a less

violent manner: Provided, that such force is neither intended nor likely to cause death or grievous bodily harm.

43. Every one proceeding lawfully to arrest any person for any cause other than such offence as in the last section mentioned, is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by flight, unless such escape can be prevented by reasonable means in a less violent manner: Provided such force is neither intended nor likely to cause death or grievous bodily harm.

44. Every one who has lawfully arrested any person for any offence for which the offender may be arrested without warrant, is protected from criminal responsibility in using such force in order to prevent the rescue or escape of the person arrested, as he believes on reasonable grounds, to be necessary for that purpose.

45. Every one who has lawfully arrested any person for any cause other than an offence for which the offender may be arrested without warrant, is protected from criminal responsibility in using such force in order to prevent his escape or rescue, as he believes, on reasonable grounds, to be necessary for that purpose: Provided that such force is neither intended nor likely to cause death or grievous bodily harm.

52. Every one is justified in using such force as may be reasonably necessary in order to prevent the

commission of any offence for which, if committed, the offender might be arrested without warrant, and the commission of which would be likely to cause immediate and serious injury to the person or property of any one; or in order to prevent any act being done which he, on reasonable grounds, believes would, if committed, amount to any such offence.

Without Warrant.

A constable may arrest for any indictable offence committed in his presence, and he is bound at all risks to use his best endeavours to do so. Nothing short of imminent danger to his life will excuse him for allowing the offender to escape.

He may also arrest on his own suspicion that an indictable offence has been committed, and that the party that he arrests is or was concerned in it.

When he arrests upon his own suspicion, it must not be upon any loose, vague suspicion, either of an offence having been committed, or of its having been committed by the person arrested, but he must, in the language of the law, have reasonable and probable cause for believing both of these facts. If he arrest without having reasonable and probable cause for so doing, he will be liable to answer in damages to the aggrieved party for making the arrest, but if he arrest under justifiable circumstances, he will not be liable for making the arrest, although the party taken was not concerned in the felony, nor will he be liable even although there was no felony at all committed.

So, also, if a constable arrest one for an indictable offence upon information derived from another, he will be fully authorized in doing so, if he had reasonable and probable cause for believing the information he got to be correct, and he will not be liable, although, as before stated, no indictable offence, in fact, had been committed at all. (Wilson, 35.)

The constable, however, must be careful that he has such reasonable and probable cause to justify his proceedings, for, if he have not, he will be liable, in like manner as any one else would be, for his malicious conduct. The constable then should consider—

1. Who it is that gives him information.
2. Who the person is who is alleged to have committed the offence.
3. The general probability of the facts narrated. For instance, a constable is not justified in apprehending a person as receiver of stolen goods, on the mere assertion of the thief.

So it also follows, if he arrest on his own suspicion of the party having committed an indictable offence, or upon information communicated to him by another, he should not detain the party arrested after his suspicions are, or ought to be, entirely removed, or if he discover the information which was given him to be false or untrustworthy. (Wilson, 36.)

Thus, if a constable arrest on a suspicion of theft, and after searching the party, discover nothing, and the suspicion appears to be groundless, he may discharge the party out of his custody without taking him before a magistrate.

A constable may arrest on information of others that a party has committed an indictable offence. Thus, if a reasonable charge is made against a person who is given in custody to a constable, the constable is bound to take him, and he will be justified in so doing, though the charge may turn out to be unfounded.

A constable may justify an arrest on a reasonable charge without warrant, although it should afterwards appear that no indictable offence had been committed, but a private individual cannot.

A constable is justified in apprehending a person on suspicion, if he have reasonable or probable cause to believe that the party charged committed an indictable offence.

2. Any one found committing any of the offences mentioned in the following sections of the Criminal Code may be arrested without warrant by a peace officer.

405. Obtaining by false pretence.

406. Obtaining execution of valuable securities by false pretence.

555. Exporting counterfeit coin.

563 (b). Possessing counterfeit foreign gold or silver coin.

563 (d). Counterfeiting foreign copper coin.

525. Cutting booms or breaking loose rafts or cribs of timber or saw logs.

536. Attempting to injure or poison cattle.

542. Cruelty to animals.

543. Keeping cock pit.

3. A peace officer may arrest, without warrant, any one whom he finds committing any criminal offence, and any person may arrest, without warrant, any one whom he finds by night committing any criminal offence. C. C. 648.

“Night” is the interval between 9 P. M. and 6 A. M. of the following day.

“Found committing” has been held to mean either seeing the party actually committing the offence, or pursuing him immediately or continuously after he has been seen committing it, so that to justify the arrest without warrant of an offender on the ground of being “found committing” an offence, he must be taken in the very act of committing it, or there must be fresh and continuous pursuit of him, from his being seen and surprised in the act until his final capture.

Pursuit after an interval of three hours would not be fresh pursuit.

“ Fresh Pursuit ” means that if the Constable is pursuing an accused and he escapes during the pursuit beyond the boundary into another district or Province of Canada, the Constable may follow and arrest him within seven miles of its boundary.

The seven miles are computed in a straight line from the boundary.

4. Any one may arrest without warrant a person whom he, on reasonable and probable grounds, believes to have committed a criminal offence and to be escaping from, and to be freshly pursued by, those whom the person arresting, on reasonable and probable grounds, believes to have lawful authority to arrest such person. C. C. 649.

5. The owner of any property on or in respect to which any person is found committing a criminal offence, or any person authorized by such owner, may arrest, without warrant, the person so found, who shall forthwith be taken before a justice of the peace to be dealt with according to law. C. C. 650.

6. Any officer in His Majesty's service, any warrant or petty officer in the navy, and any non-commissioned officer of marines, may arrest without warrant any person found conveying liquors on board His Majesty's ships, approaching or hovering about such ships for that purpose, or giving or selling to any man on board His Majesty's ships any intoxicating liquor. C. C. 651.

Any peace officer may, without a warrant, take into custody any person whom he finds lying or loitering in any highway, yard or other place during the night, and whom he has good cause to suspect of having committed, or being about to commit, any indictable offence, and may detain such person until he can be brought before a justice of the peace, to be dealt with according to law. C. C. 652.

No person who has been so apprehended shall be detained after noon of the following day without being brought before a justice of the peace. C. C. 652.

Under sec. 14 of the "Animals Contagious Disease Act," a constable may arrest without warrant any person found committing an offence against the Act with respect to infected places, and take him before a Justice.

Under sec. 139 of the "Indian Act," R. S. C. 1906, Chap. 81, any constable or peace officer may arrest without warrant any person or Indian found gambling or drunk, or with intoxicants in his possession, on any part of a reserve, and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable, upon summary conviction, to imprisonment for a term not exceeding three months, or to a penalty not exceeding \$50, and not less than \$10, with costs of prosecution, half of which pecuniary penalty shall belong to the informer.

Convict, Ticket of Leave. R. S. C. 1906, chap. 150, sec. 12.

A constable may arrest, without warrant, any convict who is the holder of a ticket of leave,

(a) whom he reasonably suspects of having committed any offence; or

(b) if it appear to such constable that such convict is getting his livelihood by dishonest means, and he may take him before a justice of the peace, to be dealt with according to law.

Search Warrant. C. C. 629 to 643.

629. Any justice who is satisfied upon oath that there is reasonable ground for believing that there is in any building, receptacle or place,

(a) anything upon or in respect of which any offence against this Act has been or is suspected to have been committed; or

(b) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence; or

(c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any offence against the person for which the offender may be arrested without warrant:

May at any time issue a warrant under his hand authorizing some constable or other person named therein to search such building, receptacle or place for any such thing, and to seize and carry it before

the justice issuing the warrant, or some other justice for the same territorial division, to be by him dealt with according to law.

Every search warrant shall be executed by day, unless the justice shall by the warrant authorize the peace officers to execute it at night.

Every search warrant may be in the form 2 in the Criminal Code schedule, or to the like effect.

When any such thing is seized and brought before such justice he may detain it, taking reasonable care to preserve it till the conclusion of the investigation; and, if any one is committed for trial, he may order it further to be detained for the purpose of evidence on the trial.

The constable should not take away any goods but those specified in the warrant, unless they are indispensable in substantiating the charge of stealing the goods specified. The constable should take with him materials for striking a light, if necessary, and he should take sufficient time to make a thorough search. The owner of the goods should, in all cases when possible, accompany the constable to point out the goods, in order to prevent mistakes.

The constable, in accordance with the warrant, should have necessary and proper assistance to watch outside, to prevent the goods being taken away or the accused person escaping.

When the goods, or any portion of them, are found, the constable is to bring them and the person before the justice, according to the directions of the warrant, subject to his order. If the accused be committed for trial, the constable should make an inventory of the goods in his memorandum book, and mark the exhibits so as to be identified by him. If a horse is the subject of the theft, the best plan would be to hand him over for safekeeping to the owner, on his entering into a recognizance to prosecute, and giving a guarantee that the horse shall be forthcoming.

Enclosed grounds constitute a "place" within the words of the statute, no matter how extensive they may be, and even if not roofed in. *Eastwood v. Miller*, L. R. 9, O. R. 440; *R. v. McGarry* 24, O. R. 52.

C. C. 636. Search for public stores.

C. C. 637. Search for gold, silver, etc.

C. C. 638. Search for timber, etc., unlawfully detained.

C. C. 639. Search for liquors near His Majesty's vessels.

C. C. 640. Search for women in house of ill-fame.

C. C. 641. Search in gaming-house.

58 Vic. c. 40; *O'Neill v. Attorney-General*, 26 S. C. R. 122.

Distress Warrant. C. C. 739 to 745.

The warrant to levy a pecuniary fine or penalty on a summary conviction is given by express authority of particular statutes. A constable is the proper officer to execute it, and if it be delivered to him a reasonable time before the day appointed for the return, he is bound to execute and return it, and he is indictable for refusal or wilful neglect. (Patton.)

747. Provides that in all cases where a warrant of distress has issued against any person, and such person pays or tenders to the constable having the execution of the same, the sum or sums in the warrant mentioned, together with the amount of the expenses of the distress up to the time of payment or tender, the constable shall cease to execute the same.

The distress warrant must fix the time within which after seizure the defendant is to pay the fine, etc., in order to avoid the goods being sold.

See Forms 39 and 40 C. C. (Seager.)

The constable should on seizure remove the goods from the defendant's premises immediately. He will be liable for trespass if he remains on the defendant's premises an unnecessarily long time. Paley 8th ed. 339.

The constable may break open an outer door to execute a distress warrant for a penalty, the whole or any part of which goes to the Crown, but not on a warrant for a mere order for payment of money such

as wages, or damage to private property, nor for penalties which are wholly payable to the complainant. Paley 339.

Before breaking open an outer door the constable should verbally notify those within, who he is, and his business there, and demand admittance.

The constable should not make a seizure or execute a warrant of distress unless he finds sufficient goods to yield, on sale, the *full amount* to be realized under the warrant; for if part only is realized the defendant cannot afterwards be committed for the balance. If the goods are not sufficient they ought not to be taken, and the warrant should be so returned. Paley, 8th ed. 341.

For the costs of distress in cases of convictions for offences against the Cr. Code or other Dominion Statutes, see Tariff under Code Sec. 770.

The following are forms for the constable's proceedings:—

CONSTABLE'S INVENTORY OF GOODS SEIZED UNDER WARRANT OF DISTRESS.

(Form)

An inventory of goods and chattels of William Smith by me this day seized and distrained, by virtue of a warrant issued by Robert Wilson, Esquire, a Justice of the Peace in and for the Province of Saskatchewan, dated the 30th day of July, 1908, under a conviction (or order) made by the said Robert Wilson as such Justice on the 30th day of June, 1908, that is to say:—
(name the articles.)

Dated at.....this day of.....1908.

(Signed) JOHN JONES,

Constable, R. N. W. M. P.

APPRAISEMENT.

(Form)

We, William Bell and John Thompson, at the request of John Jones, Constable, R. N. W. M. P., examined the goods and chattels mentioned in the annexed inventory, do appraise the same at the sum of \$.....

Witness our hands this.....day of.....A. D. 19...

(Signed) WILLIAM BELL,

(Signed) JOHN THOMPSON.

NOTICE OF SALE OF GOODS DISTRAINED.

To WILLIAM SMITH:

By virtue of a Distress Warrant issued by Robert Wilson, Esquire, a Justice of the Peace in and for the Province of Saskn., under a conviction (or order) made by the said Justice against William Smith, I have distrained the goods and chattels of the said William Smith, to wit:—(describe property).

All of which goods and chattels will be sold by public auction at.....on the.....day of.....A. D. 190... at the hour of.....o'clock in the (fore or after) noon, unless the moneys to be levied under the said Distress Warrant, with the costs of executing the same, amounting in all to \$.....

Dated the.....day of.....A. D. 19.....

(Signed) JOHN JONES,

Constable, R. N. W. M. P.

NOTE—Copy of this notice to be served on party whose goods have been seized.

Distress Warrant to be endorsed as under when there are no goods, or not enough goods to levy the amount.

(Form)

I, John Jones, Constable R. N. W. M. P., hereby certify to Robert Wilson, Esquire, a Justice of the Peace in and for the Province of Saskatchewan, that, by virtue of this Warrant, I have made diligent search for the goods and chattels of the within mentioned William Smith, and I can find no sufficient goods or chattels of the said William Smith, whereon to levy the sum within mentioned.

Witness my hand this.....day of.....19.....

(Signed) JOHN JONES,

Constable, R. N. W. M. P.

Prisoners. C. C. 39.

In apprehending a person, and making him or her a prisoner, no more force is to be used than is absolutely necessary to overcome any force used in resisting such arrest, unless same can be done by reasonable means in a less violent manner (3). In conveying persons arrested, crowded thoroughfares are to be avoided as much as possible, where obstruction or annoyance is likely to be caused.

When a prisoner is once in custody, he is not to be released, except by direction of a justice of the peace according to law.

Prisoners who are very violent, or who are charged with very serious offences, are, if necessary, to be handcuffed, to prevent danger, or the possibility of escape.

Prisoners are to be made as little uncomfortable as possible, safe keeping and not punishment being the object during the time they are in custody of constables.

No conversation is to be held in the hearing of prisoners, nor is improper language or taunting remarks to be used towards them.

Prisoners, if not in an unfit state from drunkenness or other cause, are to be at once taken before the nearest justice, if within reasonable hours, if not, at the earliest subsequent opportunity.

Beer or spirits are not to be given to prisoners getting refreshments, but only tea or coffee, except in very special cases.

Constables are to make a memorandum of these expenses, for reference, if required.

A solicitor, authorized to act for him, is allowed to communicate with a prisoner in custody. Facility, as far as practicable, is to be given, that the communication may not be overheard by any one ;but care is to be taken that the prisoner shall not escape, and if necessary for that purpose, the constable may keep prisoner in view during the interview.

Any promise or inducement held out to a prisoner, by which he makes a statement to a constable or other person in authority, or to a person directly injured by the crime, renders the statement inadmissible as evidence against him. Any confession or statement, however, made by the accused to the constable or other person, without such promise or inducement, or to any person not in authority, under such promise or threat, is admissible as evidence against him, provided proper warning is given.

Any fact discovered in consequence of information obtained by a promise, threat, or inducement, may be given as evidence.

A statement made by a prisoner, charged with any serious offence, is to be as near as possible accurately written down by the constable, and communicated to the justice who hears the case.

Prisoners insensible through drink are to be occasionally visited by the constable, and spoken to and aroused each time.

Prisoners charged with indictable offences are to be searched with a view to discovering evidence bearing upon the charge.

Persons suspected of making, uttering, or having in their possession, counterfeit coin, should be searched immediately when taken into custody; persons reasonably suspected of having or conveying in any manner, anything stolen or unlawfully obtained, may be searched.

Prisoners insensible from illness, drunkenness, or any other cause, are to be searched, solely for safe custody of their property and its return to them.

Prisoners who are drunk and riotous, or known or suspected to be dangerous, are to be searched for the purpose of depriving them of arms or weapons, by which they might make their escape, or inflict injury on themselves or those about them.

Money Found on Prisoners.

A constable who arrests a prisoner has no right to take away from him any money which he has about him, unless it is in some way connected with the offence with which he is charged, as he thereby deprives him of the means of making his defence.

Searching Prisoners.

Stolen property, when found on a prisoner, should be taken from him.

When at all possible a constable should delay searching a prisoner until he can do so in the presence of a witness, who can corroborate the constable's statement as to the articles taken from the prisoner, as the prisoner might afterwards set up an unfounded claim for articles never taken by the constable.

Immediately after the arrest of a person charged with an indictable offence, the constable should search the prisoner for weapons or for anything connected with the crime, or anything which might facilitate his escape.

Prisoners arrested for non-indictable offences should only be searched for offensive weapons.

A list of property as taken is at once to be prepared and signed by both constable and prisoner in the presence of a third party, if possible. Where no property is found, a statement to that effect must be signed in the same way. This list in duplicate must accompany the prisoner to wherever he may be confined and a receipt taken in every instance where he may be handed over to the custody of another person, the duplicate list of property to be handed over with the prisoner. Special care must be exercised with regard to weapons to see that they are carefully secured in a safe place. *If a prisoner be a female, a woman should be invariably employed to make the search.*

When an accused person charged with indictable offence, who is on bail, surrenders himself into custody to stand his trial, or for any other purpose,

he is to be searched forthwith for concealed weapons. Search should be made in a private room and not in open court.

The clothes and boots of a prisoner apprehended for murder should be at once replaced by others, that they may be examined for traces of blood. The clothes, socks, stockings, etc., should be carefully examined, wrapped up in clean paper and sealed. Great care should be taken that, by no artifice, can a prisoner charged with a serious offence, succeed in destroying, tearing, swallowing or hiding about the person *per anum aut perragiam* anything whatsoever bearing on his or her offence.

★ Escorting Prisoners and Lunatics to Places of Confinement.

Escorts conveying prisoners or lunatics to the penitentiary, gaol, or asylum, from the police guard rooms must be furnished by the provost with a list in duplicate of the prisoner's property transferred, certified correct by the prisoner. On handing over the prisoner or lunatic, the escort should obtain a receipt on the copy of the list, which he will forward to his commanding officer with his report.

Escorts must also be furnished with the warrant of committment and medical health certificate.

Constant care and vigilance only will prevent escapes.

Escorts with prisoners must at all times have their side arms loaded.

An escort should never lose sight by night or day of his charge.

Prisoners must have no opportunity to secure possession of keys of handcuffs or leg irons.

Escorts will frequently inspect handcuffs, leg irons, etc., placed on prisoners, fastenings of doors, windows, etc., of places of confinement.

Where a guard or escort consists of more than one, all are collectively and each individually responsible.

The senior must report laxness of juniors, and likewise should the senior be negligent and thus endanger the safe custody of prisoners, those under him must report him to higher authority.

Escorts conveying an unconvicted prisoner by rail, should, while taking *every precaution to prevent escape*, not impose any avoidable indignity.

If the prisoner is a powerful man in custody for a crime of violence, or is of notorious antecedents, or disposed to give trouble, or if the journey is long, it will be better to handcuff him. If the prisoner is not handcuffed, great care must be taken that he does not succeed in escaping by some pretext, through an open window or door.

Evidence.

Constables are to give evidence with the strictest accuracy. Questions of the highest interest are decided, and the administration of justice must in a

great measure depend on the trustworthiness of their evidence.

They are habitually to make accurate observation of all matters relating to duty, that they may be able, if required, to state all the circumstances.

Notes should be made by them, at the time, of the particulars of a case, to refresh the memory, if called on to give evidence.

They are not to suppress or overstate the slightest circumstance with a view to favour one person, or from ill-will to either side.

They are to endeavour as far as possible to feel indifference as to the results of cases, and they perform their duty best by stating accurately and without malice or favour all the particulars they know.

When constables are sufferers from injuries received, and are giving evidence against those whom they believe to be guilty, it is especially necessary that they should not allow any feelings or wishes as to the decision of the case to influence them.

Greater weight will always be given to the evidence of constables if they state fully and without passion all they know, and make it evident that they are speaking the whole truth.

They are to be especially careful to state all they know upon the first occasion, for, if they afterwards add to their evidence in any material point, it is nat-

usually looked on with mistrust, and is open to suspicion either as to accuracy or veracity.

Any constable who wilfully departs from the truth is utterly unfit for the service.

Constables are not to enter into conversations or statements when before a magistrate, upon any matter except such as the charge under investigation makes it their duty to mention.

Evidence in all cases must be direct; that is to say:—

(a) If it refers to a fact alleged to have been seen, it must be the evidence of a witness who says he saw it.

(b) If it refers to a fact alleged to have been heard, it must be the evidence of a witness who says he heard it, and if affecting the guilt of the prisoner, must have been uttered in his presence.

The word evidence includes all the legal means exclusive of mere argument, which tend to prove or disprove any matter of fact, the truth of which is submitted to judicial investigation. In legal investigations the true question is, not whether it is possible that the testimony may be false, but whether there is sufficient probability of its truth, that is, whether the facts are proved by competent and satisfactory evidence. By “Competent Evidence” is meant that which the law requires as a fit and appropriate proof in the particular case. By “Satisfactory Evidence”

is meant that amount of proof that ordinarily satisfies an unprejudiced mind beyond reasonable doubt. The circumstances which will amount to this degree of proof can never be previously defined; the only legal test of which they are susceptible is their sufficiency to satisfy the mind and conscience of an ordinary man, and so to convince him, that he would venture to act upon that conviction in matters of important personal evidence.

The onus of proving that a person is guilty of a crime with which he is charged lies on the person who asserts it. In all criminal proceedings it is for the prosecution to prove their case. The law presumes a man to be innocent till the contrary is proved.

Upon the knowledge of the fact he testifies, his disinterestedness, his integrity, his veracity, and his being bound to speak the truth by such an oath as he deems binding.

Leading Rules of, & Canada Evidence Act. R. S. C.
1906, chap. 145.

In all cases of treason, two lawful witnesses are required to convict a prisoner; in almost all other cases one witness is sufficient. The prisoner's voluntary confession, made according to statute before a magistrate, or his plea of guilty to an indictment in open court, is sufficient of itself to support a conviction.

An accomplice may become a witness or King's evidence against his fellows. A prisoner is not liable

to be affected by the confession of his accomplices. In practice, the unsupported evidence of an accomplice is not sufficient to convict the prisoner. It is not essential, however, that it be corroborated in every particular, for in that case his evidence would be superfluous.

In treason, murder, manslaughter, and the like, no presumption of her husband's coercion shall excuse his wife's guilt. But if a woman commit theft, burglary or other like offence, in the company of, or by the coercion of her husband, she is not considered guilty of any crime, as it is presumed she acted by compulsion and not of her own free will; but this presumption is rebuttible by proof that she acted voluntarily. In misdemeanours, there is one exception to this rule, a wife may be indicted with her husband for keeping a brothel.

➤ The best evidence the nature of the case will admit of should be produced at the trial, as its absence will weigh against the party neglecting to produce it. This rule does not demand the greatest amount of evidence which can possibly be given of any fact, but its design is to prevent the introduction of any, which from the nature of the case, supposes that better evidence is in the possession of the party.

Depositions properly taken are admissible in evidence on the trial of the accused, if it is proved that the person making such deposition is dead, and that

the deposition was taken in the presence and hearing of the accused.

The law presumes a man to be innocent until the contrary is proved, therefore, all presumptive or circumstantial evidence should be admitted cautiously, as, for instance, a man should not be convicted of stealing goods found with him merely because he cannot account for their possession, or a person should not be committed of murder or manslaughter till at least the body is found, as the person supposed to be dead may only be missing.

Dying declarations are admissible only in the single instance of homicide, when the death of the deceased is the subject of the charge, and the circumstance of the death is the subject of the dying declaration.

Hearsay evidence in general is inadmissible, because what the other said was not upon oath, and also the accused had no opportunity of cross-examining him.

When there is a question as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the supposed writer that it was or was not written by him, is deemed to be a relevant fact. The handwriting of a person may be proved: (1) by the evidence of the writer himself. (2) by a witness who actually saw the paper or signature written. (3) by a witness who has a knowledge of the person's writing by having

seen him write. (4) by a witness having seen in the ordinary course of business, documents, which by some evidence, direct or circumstantial, are proved to have been written by such person. (5) by comparison by witnesses acquainted with the handwriting, or by skilled witnesses, of the disputed writing, with any writing proved to the satisfaction of the court to be genuine.

The accused at his trial is allowed, if he so desires, to give evidence under oath in his own behalf, to call witnesses, not only to exculpate himself directly from the charge, but also to prove that he has previously borne a general good character.

In deciding upon the effect of evidence, the question is, not by how many witnesses a fact may have been proved satisfactorily. The evidence of a single witness may be so clear, so impartial, as to produce in the mind of the Court the strongest and deepest conviction. On the other hand, witness may crowd after witness, all making the same assertions, yet none be worthy of credit. In short, it is the character of the witnesses and the character of their evidence that ought to prevail, not their number.

The question of competency of a person to give evidence is one to be determined by the Court. Mr. Taylor, in his work on evidence, states, persons who are incompetent to testify are: persons who are incapable of comprehending the nature of an oath, or giving a moderately rational answer to a sensible

question, whether the person be an idiot, a lunatic, a drunkard, or a child, he cannot, so long as the defect exists, be examined as a witness. With respect to children, no precise age is fixed by the law within which they are absolutely excluded from giving evidence on the presumption that they have not sufficient understanding. In practice, the testimony of children of eight or nine years, or even less, is received when they appear to possess sufficient understanding.

Caution.—Always ascertain beforehand what your witnesses can prove before producing them in court.

Witnesses. Canada Evidence Act. R. S. C. 1906, chap. 145.

A person shall not be incompetent to give evidence by reason of interest or crime.

Every person charged with an offence, and the wife or husband, as the case may be, of the person so charged, shall be a competent witness for the defence, whether the person so charged is charged solely or jointly with any other person. Provided, however, that no husband shall be competent to disclose any communication made to him by his wife during their marriage, and no wife shall be competent to disclose any communication made to her by her husband during their marriage.

The failure of the person charged, or of the wife or husband of such person, to testify, shall not be made the subject of comment by the judge or counsel for the prosecution.

No person shall be excused from answering any question upon the ground that the answer to such question may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any other person. Provided, however, that no evidence so given shall be used or receivable in evidence against such person in any criminal proceedings thereafter instituted against him, other than a prosecution for perjury in giving such evidence.

A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible.

Children as Witnesses.

In the case of a young child offered as a witness, the justice should first question him as to his knowledge of the nature of an oath, and his moral obligation in taking it and to tell the truth. If this does not appear, his evidence may nevertheless be taken, if the justice is of the opinion that the child is of sufficient intelligence, and understands the duty of speaking the truth; in that case the child will not be sworn, but his statements will be taken down in the usual way, like any other witness, and the justice will sign the statement, noting the circumstances under which it was taken, and that it was without oath.

No case shall be decided upon such evidence alone, and such evidence must be corroborated by some other material evidence. Can. Evid. Act, Sec. 16.

Constables Prosecuting in Minor Cases.

Members of the force, especially those on detachment duty, are frequently required to prosecute minor cases in a magistrate's court. They should notify the presiding magistrate of their intention. They should bear in mind that the law presumes innocence until the contrary is proven. In a summary case which will be dealt with by the magistrate the charge is read to the accused, and he will be asked to plead thereto.

In indictable cases which cannot be dealt with summarily the accused is not asked to plead, the magistrate merely taking the depositions of the witnesses, and either dismissing the case or send it to the Supreme Court for trial.

When a prisoner pleads guilty, it is not necessary to take evidence (Criminal Code 721), and the magistrate may proceed to award sentence.

If the accused pleads "Not guilty," the constable when conducting the prosecution will proceed to call his witnesses, and it will be well for him to previously arrange in proper order the evidence they are to offer, so that it may be given in a connected manner.

All facts set out in the information should be proved, and witnesses should be allowed to give evidence in their own way, the constable taking care that important points are not left out. Witnesses should be handled quietly and made to feel at ease, otherwise they may become hostile, and valuable evidence lost.

Hearsay evidence is not accepted, and opinions are not evidence, unless the witness is an expert, and that fact must first be established before his opinion is asked.

Witnesses are allowed to speak of facts only. In order to secure important and truthful testimony, a witness should not be asked leading questions, that is, questions which suggest the answer in his examination in chief. On cross-examination a witness may be asked leading questions, the witness not being favorable to the party cross-examining.

The evidence of an Indian or non-treaty Indian may be received. Although non-Christian, if he believes in the future state and supreme being, may be sworn in same manner as a Christian witness.

If destitute of such knowledge, may affirm in such manner as Court approves. (Indian Act, R. S. C. 1906, Chap. 81, S. 151.)

Justice must caution witness that he will be liable to incur punishment if he does not tell the truth. (Ind. Act, Sec. 153.)

See under "*Evidence*" for notes respecting children's evidence.

Excerpts from Criminal Code and other Statutes of Canada, etc.

ALPHABETICALLY ARRANGED.

Abandoning or exposing children under two years of age. C. C. s. 240 (c).

“Abandon ” or “expose ” includes a wilful omission to take charge of the child when legally bound to do so, or any mode of dealing with it, calculated to leave it exposed to risk without protection.

Abduction. C. C. s. 313.

313. Of a woman with intent to marry or carnally know.

314. Of an heiress from motives of lucre.

315. Of a girl under 16 years of age.

A verdict for assault or for an attempt to commit the offence charged may be given if the evidence warrants it. C. C. ss. 950, 951.

See C. C. 1035 as to fine. •Under C. C. 315, the only intent which is material is the intent to deprive the parent or legal guardian of possession of the child. A woman may be guilty of the offence under C. C. 315. The consent of the girl is immaterial.

Abortion or attempt to procure. C. C. ss. 303, 4-5.

Accessories and Abettors. C. C. s. 69, 70, 71, 574, 575.

69. Every one is a party to and guilty of an offence who

(a) actually commits it; or

(b) does or omits an act for the purpose of aiding any person to commit the offence; or

(c) abets any person in commission of the offence; or

(d) counsels or procures any person to commit the offence.

2. If several persons form a common intention to prosecute any unlawful purpose, and to assist each other therein, each of them is a party to every offence committed by any one of them in the prosecution of such common purpose, the commission of which offence was, or ought to have been, known to be a probable consequence of the prosecution of such common purpose.

See Trading Stamps.

69. (2) R. v. Rice, 4 O. L. R. 223; 5 Can. C. C. 509. The soliciting and inciting a person to commit an offence where no offence is in fact committed by the person so solicited, is an indictable offence. R. v. Gregory, 10 Cox 459. See C. C. 269, as to aiding and abetting suicide.

70. Every one who counsels or procures another to be a party to an offence of which that other is afterwards guilty is a party to that offence, although it may be committed in a way different from that which was counselled or suggested.

2. Every one who counsels or procures another to be a party to an offence is a party to every offence which that other commits in consequence of such counselling or procuring, and which the person counselling or procuring knew, or ought to have known, to be likely to be committed in consequence of such counselling or procuring.

71. An accessory after the fact to an offence is one who receives, comforts or assists any one who has been a party to such offence in order to enable him to escape, knowing him to have been a party thereto.

2. No married person whose husband or wife has been a party to an offence shall become an accessory after the fact thereto by receiving, comforting or assisting the other of them, and no married woman whose husband has been a party to an offence shall become an accessory after the fact thereto by receiving, comforting or assisting, in his presence and by his authority, any other person who has been a party to such offence, in order to enable her husband or such other person to escape.

See C. C. 574 and 575 as to punishment, and 849 as to accessories after the fact.

Accidents by wrongful acts. C. C. ss. 283, 287.

283. Negligently endangering the safety of persons on railways.

As to fine see C. C. 1035, 1058, and as to attempt see C. C. 949.

284. Negligently causing bodily injury.

As to fine see C. C. 1035, 1058.

285. By furious driving.

287. Leaving holes in the ice, and excavations unguarded.

Account. See Books of Account.

Accuse of crime. C. C. s. 451, 453, 454.

Send threatening letter to.

Extortion by certain threats.

Actions against persons administering the Criminal Law. C. C. 1143, 1151.

1143. Every action and prosecution against any person for anything purporting to be done in pursuance of any Act of the Parliament of Canada relating to the criminal law, shall, unless otherwise provided, be laid and tried in the district, county or other judicial division, where the act was committed, and not elsewhere, and shall not be commenced except within six months next after the act committed.

1144. Notice in writing of such action and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action.

1145. In any such action the defendant may plead the general issue, and give the provisions of this title and the special matter in evidence at any trial had thereupon.

1146. No plaintiff shall recover in any such action if tender of sufficient amends is made before such action brought, or if a sufficient sum of money is paid into court by or on behalf of the defendant after such action brought.

1147. If such action is commenced after the time hereby limited for bringing the same, or is brought, or the venue laid in any other place than aforesaid, a verdict shall be found or judgment shall be given for the defendant; and thereupon, or if the plaintiff becomes non-suit, or discontinues any such action after issue joined, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall in the discretion of the Court recover his full costs as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases; and although a verdict or judgment is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge, before whom the trial is had, certifies his approval of the action.

1148. Nothing herein shall prevent the effect of any Act in force in any province of Canada, for the protection of justices of the peace or other officers

from vexatious actions for things purporting to be done in the performance of their duty.

Acquittal.

When once a person has been acquitted by a jury of any indictable offence, he cannot, under any circumstances, be again tried for it, whatever additional evidence is subsequently obtained.

This is not the case with prisoners discharged by magistrates, who can be re-apprehended if any new facts are brought to light.

Adulteration of Food, Drugs and Agricultural Fertilizers. R. S. C. 1906, chap. 133.

(a) The expression "food" includes every article used for food or drink by man or by cattle;

(b) The expression "drug" includes all medicines for internal or external use for man or for cattle;

(c) The expression "agricultural fertilizer" means and includes every substance imported, manufactured, prepared or disposed of for fertilizing or manuring purposes, which is sold at more than ten dollars per ton and which contains phosphoric acid, or ammonia or its equivalent of nitrogen; enforcement of penalties may be under the Inland Revenue Act.

Activity.

Activity in the performance of duty should be the first care of every Constable, but it must be at all times tempered by judgment and due caution.

Affray. C. C. 100.

An affray is the act of fighting in any public street or highway, or fighting to the alarm of the public in any other place to which the public have access.

Every one who takes part in an affray is guilty of an indictable offence and liable to one year's imprisonment with hard labour.

“An affray differs from a riot in this, that two persons only may be guilty of it; whereas, three persons at least are necessary to constitute a riot. A constable is not only empowered, but bound to suppress an affray which happens in his presence, and he may demand the assistance of others to enable him to do so, which, if they refuse, they are punishable by fine and imprisonment.” (1 Hawkins, s. 63, ss. 3-13.)

Affidavit.

An affidavit is a written statement upon oath taken before a person duly authorized to administer an oath.

Aiding or abetting. See Trading Stamps, C. C. 335 (u), 505 to 558.

Affirmation.

Persons objecting from conscientious motives to be sworn in criminal proceedings, are permitted to

make; instead, a solemn affirmation, in the following manner:—"I solemnly affirm that the evidence to be given by me shall be the truth, the whole truth, and nothing but the truth."

Animals Contagious Diseases Act. "R. S. C. 1906, chap. 75.

SEC. 2. "Foreign animals" means animals not already introduced into Canada, outside of quarantine stations.

"Contagious" means communicable by close contact or inoculation.

"Infectious" means communicable in any manner.

"Infectious or contagious" includes, in addition to other diseases generally so designated, glanders, farcy, maladie du coit, pleuro-pneumonia, foot and mouth disease, rinder-pest, anthrax, Texas fever, hog cholera, swine plague, mange, scab, rabies, tuberculosis, actinomycosis, and variola ovina.

By order in Council of 23rd December, 1904, the disease of tuberculosis and that of actinomycosis were exempted from the operations of Sections 3, 4, 5, 6 and 7 of this Act.

No animal affected with actinomycosis (lumpy jaw) shall be exported from Canada.

SEC. 41. Every person who refuses to admit, or who obstructs or impedes an inspector or other officers acting in execution of this Act, or of any order or

regulation thereunder, and every person who aids and assists him therein, shall for every such offence incur a penalty not exceeding \$100, and the inspector or other officer may apprehend the offender and take him forthwith before a Justice of the Peace to be dealt with according to law; but no person so apprehended shall be retained in custody, without the order of a Justice, longer than twenty-four hours.

SEC. 14. Any Inspector or Constable may, without warrant, apprehend any person found committing an offence against this Act, with respect to infected places, and shall take any person so apprehended forthwith before a Justice of the Peace to be examined and dealt with according to law, and such persons shall not be detained in custody, without the order of a Justice, longer than twenty-four hours, and any Inspector or Constable may require that any animal or thing moved out of an infected place in violation of this Act be forthwith taken back within the limits of that place, and may enforce and execute such requisition at the expense of the owner of such animal or thing.

SEC. 48. Every penalty imposed by this Act shall be recoverable with costs before any two Justices of the Peace, or any Magistrate having the power of two Justices of the Peace under Part 15 of the Criminal Code.

The following Customs ports in the Provinces of Saskatchewan and Alberta are declared to be animals Quarantine Stations, and all animals imported into

the Provinces subject to veterinary inspection must be entered through said stations:—

North Portal, Saskatchewan.

Wood Mountain, Saskatchewan.

Pendant d'Oreille.

Coutts.

Twin Lakes.

} Alberta.

Any member of the Force on patrol service meeting stock from south of the boundary (U. S.) line, will be careful to ascertain if the owners have the necessary clearance certificates from the Quarantine Inspectors at the above named ports.

By order in Council of 27th June, 1904. Every owner, breeder, or importer of or dealer in animals shall, on perceiving the appearance of mange among the animals owned by him or under his special care, give immediate notice to the Minister of Agriculture and to the nearest Veterinary Inspector of the Department of Agriculture, of the same.

Every veterinary surgeon practising in Canada shall, immediately on ascertaining that an animal is affected with mange, give similar notice to the Minister and the nearest Veterinary Inspector.

By order in Council of 6th December, 1904, the above regulations apply in the case of hog cholera and swine plague.

By order in Council of 22nd July, 1905, no animal which is affected, or suspected of being

affected with *maladie du coit* shall be permitted to run at large, or come in contact with other animals.

By order in Council of 31st March, 1905, no sheep which is affected with, or has been exposed to sheep scab shall be permitted to run at large, or come in contact with any animal not so affected.

By order in Council of 10th August, 1905, no dog or other animal which is affected with or has been exposed to the infection of rabies shall be permitted to run at large or to come in contact with other animals.

By order in Council of 25th March, 1905, no animal which is affected with or has been exposed to glanders, shall be permitted to run at large or to come in contact with any animal which is not so affected.

Directions for cleansing, etc., after outbreak glanders:—

Carcasses of slaughtered diseased animals to be burned, or buried eight feet deep.

Feed boxes, mangers and debris to be burned

After cleansing infected places and burning all debris, the interior should be gone over with hot steam or boiling water, adding to the latter, one pound of carbolic acid or creolin to the gallon, after which the surface should be coated with a hot solution of fresh lime wash, to which a germicide such as carbolic acid is added to each gallon.

Outbuildings and fences should receive similar treatment.

Harness and stable utensils should be thoroughly soaked in a hot solution of carbolic acid or creolin, one part to twenty.

Robes, cushions, etc., should be fumigated in an airtight room with formaldehyd.

Animals, Cruelty to. C. C. 542.

542. Every one is guilty of an offence, and liable, on summary conviction before two justices of the peace, to a penalty not exceeding fifty dollars, or to three months' imprisonment with or without hard labour, or to both, who,

(a) wantonly, cruelly or unnecessarily beats, binds, ill-treats, abuses, overdrives or tortures, any cattle, poultry, dog, domestic animal or bird; or any wild animal or bird in captivity; or

(b) while driving any cattle or other animal is, by negligence or ill-usage in the driving thereof, the means whereby any mischief, damage or injury is done by any such cattle or other animal; or

(c) in any manner encourages, aids or assists at the fighting or baiting of any bull, bear, badger, dog, cock or other kind or animal, whether of domestic or wild nature.

The expression "cattle" means any horse, mule, ass, swine, sheep or goat.

Limit of prosecution, three months from commission of offence.

Informer in such cases entitled to half the fine.
C. C. 1043.

Castration of horses or other animals is not prohibited.

Dehorning of cattle is not an offence, provided the operation be skilfully and properly performed.

Cruelty to an animal to be within the statute must cause substantial and unnecessary suffering.

KEEPING COCK-PIT.

543. Every one is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding fifty dollars, or to three months' imprisonment, with or without hard labour, or to both, who builds, makes, maintains or keeps a cock-pit on premises belonging to or occupied by him, or allows a cock-pit to be built, made, maintained or kept on premises belonging to or occupied by him.

All cocks found in any such cock-pit, or on the premises wherein such cock-pit is, shall be confiscated and sold for the benefit of the municipality in which such cock-pit is situated. Limitation, within three months.

Under C. C. 647, a person can be arrested without a warrant for an offence under this section or under C. C. 542.

C. C. 1043.

7. Every pecuniary penalty recovered with respect to any offence under sections 542 and 543 shall be applied in the following manner, that is to say: one moiety thereof to the corporation of the city, town, village, township, parish or place in which the offence was committed, and the other moiety, with full costs, to the person who informed and prosecuted for the same, or to such other person as to the justices of the peace seems proper. R. S. C. 1886, C. 172, s. 7.

544. Provides that cattle, etc., on railways and vessels are not to be kept more than 28 hours without unloading them for rest, water and food, for a period of at least five consecutive hours, unless prevented by storm or other unavoidable cause, or by necessary delay or detention in the crossing of trains, under a penalty on summary conviction of a sum not exceeding \$100.

545. Empowers a constable or peace officer at all times to enter on premises where he has reasonable grounds for supposing that any car, truck, or vehicle, or enter on board any vessel, in respect whereof any company or person has failed to comply with the requirements of this Act, is to be found, and if any person refuses admission to such officer or constable, such person is guilty of an offence and liable on summary conviction to a penalty not exceeding \$20 and not less than \$5 and costs, and in default, to thirty days' imprisonment.

Assault and Common Assault and Battery. C. C. 291.

291. Every one who commits a common assault is guilty of an indictable offence and liable, if convicted upon an indictment, to one year's imprisonment, or to a fine not exceeding \$100, and on summary conviction to a fine not exceeding twenty dollars and costs, or to two months' imprisonment with or without hard labour.

See C. C. 122 as to pointing fire arms at any person, and see C. C. 290, as to definition of assault.

On trial for common assault, if a greater offence is disclosed the justice shall abstain from adjudication and shall deal with the case as if he had no authority to finally hear and determine the same.

Assault.

An assault is an attempt or offer with force and violence to do a corporal hurt to another: as by striking at him with or without a weapon, or throwing a stone or riding at him; and where A. seized the bridle of the horse on which B. was riding, it was held that B., after a request to desist, was justified in striking A. with his riding whip, using no more violence than was necessary to obtain his release; or striking a horse whereon he is riding, whereby he is thrown; or presenting a loaded gun at him at a distance to which the gun can be discharged; cutting off a person's hair by force against his will; or holding up the hand in a threatening manner; or any circumstance denoting at

the time an intention, coupled with a present ability, of using actual violence against the person, and although stopped at the particular moment, a hostile intention being necessary to constitute an assault; and likewise any excess of violence in executing any legal or illegal act will constitute an assault; a mere obstruction is not an assault, but every unlawful imprisonment is an assault. A battery is an injury, however small, actually done to the person of another in an angry, revengeful, rude or insolent manner, as by spitting in his face, or in any way touching him in anger, violently jostling him out of the way, or the like; which battery includes an assault. (Oke.)

Assault, Aggravated. C. C. 296.

296. Every one is guilty of an indictable offence, and liable to two years' imprisonment, who

(a) assaults any person with intent to commit any indictable offence; or

(b) assaults any public or peace officer engaged in the execution of his duty, or any person acting in aid of such officer; or

(c) assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself, or of any other person, for any offence; or

(d) assaults any person in the lawful execution of any process against any lands or goods, or in making any lawful distress or seizure, or with intent to rescue any goods taken under such process, distress or seizure; or

(e) on any day whereon any poll for any election, parliamentary or municipal, is being proceeded with, within the distance of two miles from the place where such poll is taken or held, assaults or beats any person.

Assault, unprovoked, self-defence against.

53. Every one unlawfully assaulted, not having provoked such assault, is justified in repelling force by force if the force he uses is not meant to cause death or grievous bodily harm, and is no more than is necessary for the purpose of self-defence; and everyone so assaulted is justified, though he causes death or grievous bodily harm, if he causes it under reasonable apprehension of death or grievous bodily harm from the violence with which the assault was originally made or with which the assailant pursues his purpose, and if he believes, on reasonable grounds, that he cannot otherwise preserve himself from death or grievous bodily harm.

R. v. Knock, 14 Cox 1; Harrigan Cases on Self-Defence, 720. See C. C. 229.

Assault, provoked, self-defence against.

54. Every one who has without justification assaulted another, or has provoked an assault from that other, may nevertheless justify force subsequent to such assault, if he uses such force under reasonable apprehension of death or grievous bodily harm from the violence of the person first assaulted or provoked,

and in the belief, on reasonable grounds, that it is necessary for his own preservation from death or grievous bodily harm: Provided, that he did not commence the assault with intent to kill or do grievous bodily harm, and did not endeavour at any time before the necessity for preserving himself arose, to kill, or do grievous bodily harm: Provided also, that before such necessity arose he declined further conflict, and quitted or retreated from it as far as was practicable.

2. Provocation, within the meaning of this and the last preceding section, may be given by blows, words or gestures.

See notes under s. 53 above.

55. Every one is justified in using force in defence of his own person, or that of any one under his protection, from an assault accompanied with insult: Provided, that he uses no more force than is necessary to prevent such assault, or the repetition of it: Provided, also, that this section shall not justify the wilful infliction of any hurt or mischief disproportionate to the insult which the force used was intended to prevent.

See C. C. 24, as to meaning of word "*justified*."

Assaults, indecent, on females.

292. Every one is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped, who

(a) indecently assaults any female; or

(b) does anything to any female by her consent which but for such consent would be an indecent assault, such consent being obtained by false and fraudulent representations as to the nature and quality of the act.

Assaults, indecent, on males.

293. Every one is guilty of an indictable offence and liable to ten years' imprisonment, and to be whipped, who assaults any person with intent to commit sodomy, or who, being a male, indecently assaults any other male person. See 56 Vic., c. 32.

Consent of persons under 14 years of age does not constitute a defence under C. C. ss. 292 and 293. See C. C. s. 294.

Beggars. C. C. 238.

238. Are to be apprehended and charged with this offence under the Vagrant Act. See also Vagrants.

Betting and pool selling. C. C. 235.

Penalty 1 year's imprisonment and fine not exceeding \$1,000 for keeping premises for betting or registering bets, etc., or becoming a custodian of bets or registering bets upon the result of any political or municipal election, or any race, or any contest or trial of skill or endurance of man or beast; but this does not include the custodian of prize money.

Bigamy. C. C. 307.

307. Bigamy is—

(a) the act of a person who, being married, goes through a form of marriage with any other person in any part of the world; or

(b) the act of a person who goes through a form of marriage in any part of the world with any person whom he or she knows to be married; or

(c) the act of a person who goes through a form of marriage with more than one person simultaneously or on the same day.

Books of Account. C. C. 417.

Penalty for insolvent trader or merchant not keeping unless he can account for loss, \$800 and 1 year's imprisonment.

Breaking Open Doors. See C. C. 39, 40 and 102, 103.

Breaking open an outer door or window to enter a man's house, is an objectionable and dangerous proceeding, and should only be resorted to in extreme cases. The peace and security of private dwellings is a matter of great importance. It is only in matters of high concern to the public, and to prevent the ends of justice being frustrated, that the law permits its officer to have recourse to this obnoxious proceeding.

The officer is therefore in no case justified in breaking open outer doors, or the windows or other parts of a house, until—

(1) He has declared his business; (2) demanded admission; and (3) allowed a reasonable time for opening them to elapse, and they have not been opened in that time.

Breach of the Peace.

A breach of the peace is any violation of that quiet, peace and security, which is guaranteed by the laws, for the comfort of every individual, and it is the duty of a constable to arrest any one committing a breach of the peace.

Brothel, or common bawdy house. C. C. 225, 228, 640.

225. A common bawdy house is a house, room, set of rooms or place of any kind kept for the purposes of prostitution, or occupied or resorted to by one or more persons for such purposes.

The keeper of such a house is guilty of an indictable offence, and is liable to one year's imprisonment. C. C. 228.

Under C. C. s. 640, a constable may enter under warrant by day or night any house of ill-fame or bawdy house, and, if necessary, may break open doors or otherwise effect an entrance for the purpose of delivering any female to her parent, husband, master, or guardian, etc.

See Part 16 C. C. "Summary trial of indictable offences," sec. 773, for jurisdiction of magistrates in re keepers, inmates, habitual frequenters of disorderly houses, houses of ill fame or bawdy houses.

Burglary. C. C. 335, 339, 340, 457.

“Burglary” is the act of breaking and entering a dwelling house by night, with intent to commit an indictable offence. “Night” is the interval between 9 p. m. and 6 a. m. of the following day.

“Break,” means to break any part, internal or external, of a building, or to open by any means whatever, any door, window, shutter, cellar flap or other thing intended to cover openings to a building, or to give passage from one part of it to another. C. C. 335 (c).

“Dwelling House” means a permanent building, whole or any part of which is kept by the owner or occupier for the residence therein of himself, his family or servants, or any of them, although it may at intervals be unoccupied.

457. Every one is guilty of the indictable offence called burglary, and liable to imprisonment for life, who

(a) breaks and enters a dwelling-house by night with intent to commit any indictable offence therein; or

(b) breaks out of any dwelling-house by night, either after committing an indictable offence therein, or after having entered such dwelling-house, either by day or by night, with intent to commit an indictable offence therein.

When a burglary has been committed, the constable should proceed at once to the premises and obtain all the particulars as to the breaking into, the entry, description and nature of property stolen, or other felony committed, and also as to any suspicious persons seen loitering in the neighbourhood.

Immediate inquiries are to be made, and any clue that may be obtained followed up with a view to arrest the offenders.

Burden of Proof.

The burden of proving that any person has been guilty of a crime or wrongful act, is on the person who asserts it. It is, therefore, in criminal proceedings, for the prosecution to prove the prisoner guilty, and until this has been done, he is presumed to be innocent.

Cautioning a Prisoner.

Before a prisoner in custody is asked any question, however necessary, even for the preservation of the life of an injured person, or the furtherance of the ends of justice in relation to any crime, and especially murder, with which he is charged, or about to be charged, he should be distinctly cautioned that his answer may be given in evidence against him. The law is very strict on this head, and does not permit persons charged with offences to be interrogated by police as to their guilt.

But on the other hand, it is the duty of a constable to listen to all a prisoner says, and faithfully to give evidence of the same. To this end a note should be taken in writing of any observations a prisoner may make, so that the memory may be refreshed before giving evidence.

Certiorari (to be more fully informed.)

Is the name of a writ from the Supreme Court. It commands in the King's name the judges and officers of the inferior courts to certify and return the records of a cause depending before them, to the end that the party may have more sure and speedy justice.

Character, Evidence of.

In criminal proceedings, the fact that an accused person has a good character is important, but the fact that he has a bad character unimportant, unless it is itself a fact in issue, or unless evidence has been given that the prisoner has a good character.

Clergymen, obstructing. C. C. 199, 200.

199. Every one is guilty of an indictable offence and liable to two years' imprisonment who—

(a) by threats or force, unlawfully obstructs or prevents, or endeavours to obstruct or prevent, any clergyman or other minister in or from celebrating divine service, or otherwise officiating in any church, chapel, meeting-house, school-house or other place for divine worship, or in or from the performance of his

duty in the lawful burial of the dead in any churchyard or other burial place; or

200. Strikes or offers any violence to, or upon any civil process, or under the pretence of executing any civil process, arrests any clergyman or other minister who is engaged in, or to the knowledge of the offender, is about to engage in, any of the rites or duties mentioned in s. 199, or who, to the knowledge of the offender, is going to perform the same, or returning from the performance thereof. See Disturbing Religious Worship.

See C. C. 1035, 1058 as to fines or sureties.

Circumstantial Evidence.

Circumstantial evidence is that which may be inferred from particular actions, or from the circumstances, which either usually or necessarily attend a given condition of fact.

Direct testimony is in all cases preferable, but in the absence thereof, circumstantial evidence may be accepted until the contrary is proven.

In criminal cases, and especially in murder, where the act can rarely be proved directly, circumstantial evidence has often been found to produce a strong assurance of the prisoner's guilt.

Coin, Counterfeit. C. C. 2, 546, 547, 569.

In all charges relating to counterfeit coin, offenders are to be arrested on view, and immediately

searched in the place where they are taken into custody, and in the presence of the complainant, when the circumstances admit of its being done, or otherwise to take such precaution as will prevent the prisoners making away with false coin or other evidence of guilt.

Any person having in their possession counterfeit notes and attempting to cheat or defraud by exhibiting such notes are to be arrested.

Concealed Weapons, Carrying. C. C. 123.

123. Every one who carries about his person any bowie knife, dagger, dirk, metal knuckles, skull cracker, slung shot or other offensive weapon of like character, or secretly carries about his person any instrument loaded at the end, or sells or exposes for sale, publicly or privately, any such weapon, or being masked, or disguised, carries or has in his possession any firearm or air-gun, is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding fifty dollars, and not less than ten dollars, and in default of payment thereof to imprisonment for any term not exceeding thirty days, with or without hard labour. Limitation, after committing of offence, one month.

Confessions.

A confession is an admission made at any time, by a person charged with a crime, and suggesting the inference that he committed that crime.

A confession must be entirely voluntary. This will not be the case if it appears to the Judge to have been caused by an inducement, threat or promise, proceeding from a person in authority, and having reference to a charge against the accused person, whether addressed to him directly, or brought to his knowledge indirectly, or if, in the opinion of the Judge, such inducement, threat or promise gave the accused person reasonable grounds for supposing that by making a confession, he would gain some advantage or avoid some evil, in reference to the proceedings against him.

Any confession made to the police should be at once reduced to writing, signed by the person making it, and witnessed.

When a person gives himself up to the police for a real or supposed crime, any questions absolutely necessary to elicit the facts may be asked, and in such cases the confession should be forthwith reduced to writing, and the person making it be requested to read and sign it, the signature being witnessed.

The burden of proving that a confession was free and voluntary is upon the prosecution.

Corporations.

Are liable to summary conviction, 2 Can. Cr. Cas. p. 481; and service is made by issuing a summons and serving (not the summons), but a notice on the mayor or chief officer or secretary of the corporation. The punishment upon conviction of a corporation can only be by fine, and can only be enforced by distress.

FORM OF NOTICE.

PROVINCE OF
CANADA.

The King v. The (*name of corporation.*)

To C. D. chief officer (*or secretary*) of the (*name of corporation.*)

Take notice that upon the information of A. B. of.....
a summons was on the.....day of.....19.., duly
issued by the undersigned, a justice of the Peace in and for the
.....against the above named (*name of corporation*),
requiring the said (*name of corporation*) to appear before me on
the.....day of.....19.., at.....in the.....
of in.....at the hour of.....o'clock.....noon, in
answer to the charge that (*here set out the charge as laid in the
information.*)

And take notice that unless the said (*name of corporation*)
appears before me at the said time and place, and pleads to the
said charge I shall proceed with the summary trial thereof as if
the said (*name of corporation*) had duly appeared.

Dated at.....this.....day of.....19...

Justice of the Peace in and for the.....

Coroner's Constables.

It will be the duty of a constable, should a death occur from violence or unfair means, or through culpable or negligent conduct (of any other person than deceased), to notify the nearest coroner and the officer commanding his district, while the body is fresh, and, if possible, while it remains in the same situation as when the party died. He should attend the coroner when he arrives, who decides if an inquest is necessary. The constable officiating at an inquest assists the coroner, preserves order, and is to obey all lawful orders of the coroner. The coroner has by law

the right to do all acts which are necessary to enable him to hold his inquest on the view of the body; and as incidental to this right, he could break open doors to get at the body; and those who obstruct him in so doing are guilty of a misdemeanour, and a constable who is present is bound to protect him.

The constable should ascertain the name of the deceased, the cause of death, and, as far as possible, all circumstances connected with the affair, which he will report to the coroner and to the officer commanding his district. Careful examination of the premises or vicinity should be made, distances noted and a sketch prepared.

The N. C. officer or constable investigating must go thoroughly into the matter, making most careful enquiry, so that they may be in a position to furnish an independent report and opinion.

The decision of a coroner should not be too readily accepted.

Statements from persons in any way acquainted with the facts should be taken in writing and signed by them.

A coroner directs his warrant to a constable authorizing him to summon a sufficient number of persons (British subjects) to attend and be sworn as jurors, and will also furnish him with summonses for any witnesses required.

A coroner's jury in the Provinces of Saskatchewan and Alberta consists of not less than six British subjects.

In the Yukon Territory a coroner's jury consists of six British subjects.

In the N. W. Territories, as at present constituted, where in the opinion of a coroner it is impracticable to obtain six jurors, he may hold an inquest with a jury of a less number or without a jury, and in such case the inquisition shall state that the inquest has been so held, with the reasons therefor; and the verdict of the jury, if less than six in number, shall be unanimous; and if there is no jury, the coroner may find such verdict as a jury might have found.

No person is exempt from juror's duty, but the relations or connections of the deceased should not be summoned.

The constable after summoning the jury returns the warrant to the coroner backed as follows: "The execution of this warrant appears by the schedule thereto annexed.

"Name....."

"Constable R.N.W.M.P."

"Dated at.....this.....day of.....19..."

And to the warrant the constable annexes the following schedule:

"Schedule of Jurymen Served."

"Schedule of jurymen personally served by the undersigned constable under the annexed warrant of....(name).... coroner in and for the....."

Name of person served.	Occupation.	Date of service of summons.	Where served.

“Signature.....

“Rank.....

“R.N.W.M.P.”

The constable will attend at the time and place set by the coroner for holding the inquest, and will be directed by the coroner to open the court, which he does by proclaiming in a loud, clear voice as follows:

“Oyez, Oyez, Oyez, you good men of this (or territory) summoned to appear here this day, to inquire for our Sovereign Lord the King, when, how, and by what means (state name of deceased) came to his death, answer to your names as you shall be called, every man at the first call, upon the pain and peril that shall fall thereon.”

The coroner then reads over the names of the jury-men, the constable calling them after him.

After the body has been viewed and everything is in readiness for the coroner to hear the evidence, the constable will call “order” and will make the following proclamation for the attendance of witnesses:

“If anyone can give evidence on behalf of our Sovereign Lord the King, when, how, and by what

means (name the deceased) came to his death, let him come forth and he shall be heard."

The adjournment of the court is done by the constable proclaiming :

" Oyez, Oyez, Oyez. All manner of persons who have anything to do at this court before the King's coroner for this.....(or territory) may depart hence at this time and give their attendance here again (or at the adjournment place) on.....next, being the.....day of.....instant, at.....of the clock in the fore (or after) noon precisely. God save the King."

At the re-assembling of the court, the same formalities must be gone through as at the opening, and if a further adjournment is required, it must be done with the same formalities as the first one.

The constable makes the proclamation and calls the jurors' names.

After the evidence has been recorded, and should the jury wish to consider their verdict, they must do so by themselves.

The constable is sworn to take charge of them as follows :—

" You shall well and truly keep the jury upon this inquiry and shall not suffer any person to speak to them, nor shall you speak to them yourself, unless it be to ask them if they have agreed upon their verdict, until they shall be agreed. So help you God."

At the conclusion of the inquest the jurors are discharged by the constable making the following proclamation:—

“Oyez, Oyez, Oyez. You good men of this..... (or Territory) who have been empanelled and sworn of the jury to inquire for our Sovereign Lord the King touching the death of (name the deceased), and have returned your verdict, may now depart hence and take your ease. God save the King.”

In cases of sudden deaths in the Yukon Territory, members of the force should be careful to take charge of all papers, money and other effects of deceased persons, making a detailed inventory of everything with approximate valuation, which they will sign, pack up the effects, seal and label the package, and forward the same to “The Public Administrator, Dawson, Y. T.,” without delay, through the officer commanding the district.

The public administrator for the territory attends to the winding up of the estates of persons dying in the territory.

“Public Administrator’s Ordinance, Yukon Territory.”

“Section 4.—Any person or persons in whose charge or care, or upon whose premises any person dies, shall forthwith give notice of such death to the public administrator or to the officer or constable commanding at the post of the North West Mounted Police nearest the place where such death occurred,

and shall also forthwith deliver to the public administrator or to such officer or constable all moneys, goods, chattels, books, documents, papers and effects in his or their possession or custody belonging to the estate of the deceased, and shall also inform the public administrator or such officer or constable of all the facts within his or their knowledge, information or belief, touching the name, age, former place of residence without the Yukon Territory, relatives and property, both real and personal, of the said deceased; and any person neglecting to comply with the provisions of this section shall be liable, upon summary conviction before a justice of the peace, to a fine not exceeding \$500, and not less than \$50 with costs.

Section 5.—The officer or constable to whom such notice and information are given shall, as soon as possible, transmit the same to the public administrator, together with such assets of the estate as have been delivered under the next preceding section hereof.


Whenever immediate transmission of the assets is practicable, a complete inventory (with an approximate valuation) of such assets shall be forthwith transmitted.

Corruption of officers employed in prosecuting, etc., offenders. C. C. 157.

157. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,

(a) Being a justice of the peace, peace officer, or public officer, employed in any capacity for the pros-

ecution or detection or punishment of offenders, corruptly accepts or obtains, or agrees to accept or attempts to obtain for himself, or for any other person, any money or valuable consideration, office, place or employment, with the intent to interfere corruptly with the due administration of justice, or to procure or facilitate the commission of any crime, or to protect from detection or punishment any person having committed or intending to commit any crime; or

 (b) Corruptly gives or offers to any such officer as aforesaid any such bribe as aforesaid with any such intent.

Dead Bodies.

When a dead body is found, and there is no doubt that life is extinct, it should never be touched until the arrival of a constable who should forthwith carefully note its appearance and everything surrounding it. If he suspects that death was caused by violence, he should not move the body, or allow any part of the clothing or any article about it to be touched or moved by any person.

The constable will have the coroner notified, also his superior officer, but must not leave the vicinity of the body.

Death by Misadventure.

Arises where a man doing a lawful act, without any intention of hurt, unfortunately kills himself or another.

Depositions.

The deposition of a witness is his evidence before a magistrate taken down in writing.

Constables are not expected to sign depositions before justices unless previously read over to them, and known to be an accurate statement of their evidence. When constables are concerned in cases sent for trial, notes of evidence given by them in their depositions before the committing justices are to be made and kept, in order that they may refresh their memory before being called upon to give evidence at the trial, and so prevent any discrepancy occurring.

Constables should be very careful that it contains an absolutely accurate statement of their evidence; for if there is any omission or error, it will be made the ground of cross-examination at the trial, and tend to cast a doubt upon the constable's truthfulness.

Distrain of Goods on Premises.

In cases where a distrain is made for non-payment of rent, or for any other cause, or disputes arise between persons as to ownership of property seized under legal process, constables are not to give assistance to either, or interfere between them, on any pretence whatever, nor to enter the house or the premises unless it is necessary to prevent an immediate breach of the peace, or to quell a disturbance that has actually arisen, and are on such occasions merely to take offenders into custody, as they are authorized by law so to do.

Description.

The description of individuals suspected of offences whose apprehension is sought, or who are missing, or who have been found dead, should be fully given, particular mention being made of any peculiarities of dress and appearance. The following may be advantageously used, the words in brackets being to help the constable to cross-examine the persons able to give the description:—

Name
 Alias or nickname
 If a married woman, give maiden name.
 Born at
 Age (if looks it, or older or younger).....
 Profession or calling, past, present and possible.....
 If single or married
 If been or now cohabiting with a woman, her name
 and particulars concerning her.....
 Wanted for
 Height (tall, short, medium).....
 Build (stout, thin, erect, stooping).....
 Hair (colour, quantity, parting, cut).....
 Eyebrows (colour, thick, thin, shape)
 Forehead (high, low, straight, sloping).....
 Eyes (blue, grey, hazel, large, small, peculiarities)..
 Nose (large, small, Jewish, turned up).....
 Mouth (open, close, shut, shows teeth).....
 Lips (thin, thick, protruding, receding).....
 Teeth (clean, discoloured, stopped, if any false, es-
 pecially in front).....

Fingers (long, short, nails, any peculiarities).....	
Chin (round, pointed, turned up).....	
Ears (large, small, close to head, protruding, with long or short lobe, if pierced).....	
Face (long, round, smiling, scowling).....	
Complexion (fair, dark, fresh).....	
Beard (colour, thick, thin, style).....	
Moustache (colour, end waxed, turned up, etc.).....	
Marks, warts, pimples, scars, about the face, neck, hands or person)	
Specimen of handwriting	
Companionship	
Dress	
Date of absconding	

Description of property stolen should be equally minute, and especial prominence given to any word, inscription, engraving, peculiarity or shape by which it may be identified.

Detection of Crime.

The certainty of the detection of criminals is a point to be aimed at by all ranks of police, and it can only be attained by cordial co-operation, an absence of jealousy, or craving for individual credit, free interchange of information, great activity, and the constant adoption of fresh and unexpected measures.

In every instance it must be borne in mind not only that the culprit has to be discovered, but that

his delinquency must be brought home to him by legal evidence.

Discipline.

Discipline is the obedience and respect to lawful authority which distinguishes an organized corps or body from a rabble.

Detective.

A detective should possess intelligence, judgment, tact, aptitude by force or character and by practice, to gain an influence over others, untiring patience and courage, but beside all these, strict integrity, without which, however clever he may be in any of the foregoing respects, no confidence can be placed in him, and he cannot be regarded as fit for the detective service. A detective should have the power of self-control and should be practiced in the art of eliciting or drawing out information. He should be quick in observing and picking up whatever may tend to throw light upon the object of his enquiry. He will frequently be in possession of secret information, and unless he possess the power of holding his tongue, even in the presence of his most trusted friends, the failure of his mission may be the consequence.

Great importance will be attached to the manner in which detectives discharge their difficult duties; it cannot be too deeply impressed upon them, that however anxious the Government may be for the convic-

tion of criminals, even the greatest delinquents are not to be brought to justice by unjustifiable means. Should any detective, therefore, whatever may be the amount of his success, be convicted of practices in the discharge of his duties that are inconsistent with the course that is fairly to be expected of every honest man, he will be dismissed.

Disturbing Religious Worship, Meetings, &c. C. C.
201.

Enacts "that whoever wilfully disturbs, interrupts or disquiets any assemblage of persons met for religious worship or for any moral, social or benevolent purpose, by profane discourse, by rude and indecent behaviour, or by making a noise, either within the place of such meeting or so near it as to disturb the order or solemnity of the meeting, may be arrested on view by any peace officer present at such meeting, or by any other person present, thereto verbally authorized by any justice of the peace present thereat, and detained until he can be brought before a justice of the peace, and may be fined not exceeding \$50 and costs by such justice, and in default of payment to one month's imprisonment.

Dominion Lands Act. (Excerpts from.) R. S. C.
1906, chap. 55.

SEC. 221. Penalty for molesting Dominion Land Surveyor in discharge of his duty, not exceeding \$20, or to imprisonment for a term not exceeding two

months, or to both, in the discretion of the Court. 46 V. C. 17, s. 121.

SEC. 222. Every person who knowingly and wilfully pulls down, defaces, alters or removes any mound, post or monument erected, planted or placed in any original survey under the provisions of this Act, or under the authority of the Governor-in-Council, is guilty of an indictable offence, and shall be liable to imprisonment for any term not exceeding seven years.

SEC. 223. Every person who knowingly and wilfully defaces, alters or removes any other mound or landmark, post or monument placed by any Dominion Land Surveyor to mark any limit, boundary or angle of any township, section or other authorized subdivision, lot or parcel of land in the Province of Manitoba, Saskatchewan or Alberta, or the North West Territories, or the Yukon Territory, is guilty of an indictable offence, and liable to a penalty not exceeding \$100, or to imprisonment for a term not exceeding three months, or to both, in the discretion of the Court. (46 V. C. 17, s. 122 part.)

SEC. 44. Nothing in this Act shall extend to prevent Dominion land surveyors, in their operations, from taking up posts or other boundary marks when necessary, after which they shall carefully replace them as they were before. (46 V. C. 17, s. 122 part.)

Cir. No. 433 of the 29.6.03 directs members of the Force to use every endeavour to prevent the re-

moval of posts used for the purpose of marking Dominion land surveys, or, where the offence has been committed, to bring the guilty person or persons to justice.

Drunkenness.

Drunkenness is no excuse for any offence of omission or commission, unless involuntarily brought about by the unlawful administration of some drug.

Dog or other animal stealing. C. C. 370.

If the value exceeds \$20.00, guilty of an indictable offence, and liable to penalty not exceeding \$50.00 over and above the value of the property stolen, or to two years' imprisonment, or to both, and if the value of the property stolen does not exceed \$20.00, is guilty of an offence and liable upon summary conviction to a penalty not exceeding \$20.00 over and above such value, or to one month's imprisonment with hard labour.

2. Summary conviction of another offence thereunder, liable to three months' imprisonment with hard labour.

Dog, kills, maims or wounds. C. C. 537.

Penalty not exceeding \$100 over injury done, or three months with or without hard labour. Second offence indictable. 53 Vic., c. 37, Can.

Dwelling House. See Housebreaking.

Dying Declarations.

In cases of murder or manslaughter, in which the victim is likely to die, a magistrate should be informed of the facts, and requested to take his or her dying declaration.

If there is no time for this, the declaration may be taken by a constable or other peace officer.

A statement made by a dying person concerning the subject under inquiry, in the presence of the prisoner, may be used as evidence.

For a dying declaration to be received in evidence, the declarant must be shown to the satisfaction of the judge to be in actual danger of death, and to have given up all hope of recovery, at the time the declaration was made. It should therefore commence in this form:—

“ I, A. B., having the fear of death upon me, and being without hope of recovery, make the following statement.”

It should then be taken down exactly in the words of the dying person, be read slowly and carefully over to him or her from beginning to end, and then signed before witnesses.

Enticing Militiamen or Mounted Police to Desert.

—(Criminal Code, sec. 84.)

Every one is guilty of an offence and liable, on summary conviction, to six months' imprisonment, with or without hard labour, who

(a) persuades any man who has been enlisted to serve in any corps of militia, or who is a member of or has engaged to serve in the Royal North West Mounted Police Force, to desert, or attempts to procure or persuade any such man to desert; or

(b) knowing that any such man is about to desert, aids or assists him in deserting; or

(c) knowing any such man is a deserter, conceals such man, or aids or assists in his rescue.

Escape and Rescue. C. C. 185 to 196.

191. Every one is guilty of an indictable offence and liable to seven years' imprisonment who—

(a) Rescues any person or assists any person in escaping or attempting to escape from lawful custody, whether in prison or not, under sentence of death or imprisonment for life, or after conviction of, and before sentence for, or while in such custody upon a charge of any crime punishable with death or imprisonment for life; or

(b) Being a peace officer and having any such person in his lawful custody, or being an officer of any prison in which any such person is lawfully confined, voluntarily and intentionally permits him to escape therefrom.

192. Every one is guilty of an indictable offence and liable to five years' imprisonment who—

(a) Rescues any person, or assists any person in escaping, or attempting to escape, from lawful cus-

tody, whether in prison or not, under a sentence of imprisonment for any term less than life, or after conviction of, and before sentence for, or while in such custody, upon a charge of any crime punishable with imprisonment for a term less than life; or

(b) Being a peace officer having any such person in his lawful custody, or being an officer of any prison in which such person is lawfully confined, voluntarily and intentionally permits him to escape therefrom.

Examination of witnesses.

Witnesses are first examined in chief, then cross-examined, and then re-examined.

A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that the judge considers it likely that the transaction was at that time fresh in his memory. The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.

Any writing referred to must be produced and shown to the adverse party, if he requires it, and such party may, if he pleases, cross-examine a witness thereupon.

Exhibits.

An exhibit is the document referred to in a deposition or affidavit, and shown to the witness.

Expenses.

In cases where expenses are incurred by constables conveying prisoners, hire of conveyance, railway fares, meals supplied, etc., an accurate account of all such expenditure should be kept by the constable in his memorandum book, together with vouchers showing the full particulars, date, etc.

Experts.

When there is a question on any subject on which a course of special study or experience is necessary to the formation of an opinion, including handwriting, the opinions thereon of persons specially skilled in any such matter are relevant, and the persons are called experts.

Extortion. C. C. 453-454.

Extortion is an abuse of public justice, consisting in the unlawful taking by an officer, by colour of his office, of any money or thing of value, where either none at all is due to him, or not so much is due, or before any is due.

This offence, it has been justly observed, may be, in some cases, considered more odious than robbery, because it carries with it an appearance of truth, and is often accompanied with perjury by the breach of an

oath of office. The punishment for the offence at common law is by fine and imprisonment, and also by a removal from the office, in the execution of which it was committed.

But justices of the peace whose office was instituted after the Act, are bound by their oath of office to take nothing for the execution of their office but of the King, and fees accustomed, and costs limited by statute. And generally, no public officer can take any other fees or rewards than those given him by statute, or such as have been anciently and accustomedly taken, without being guilty of extortion. (Dalton, c. 41.)

False Pretences. C. C. 404-407.

A false pretence is a representation, either by words or otherwise, of a matter of fact either present or past, which representation is known to the person making it to be false, and which is made with a fraudulent intent to induce the person to whom it is made to act upon such representation.

Exaggerated commendation or depreciation of the quality of anything is not a false pretence, unless it is carried to such an extent as to amount to a fraudulent misrepresentation of fact.

It is a question of fact whether such commendation or depreciation does or does not amount to a fraudulent misrepresentation of fact.

Fees. See Tariff of Fees. Schedule A.

NOTE.—Members of the R. N. W. M. P. summoned as witnesses on behalf of the Crown are not entitled to collect witness fees from the Crown, and must not accept or receive same.

Felony and Misdemeanour. C. C 14.

14. The distinction between felony and misdemeanour is abolished, and proceedings in respect of all indictable offences (except so far as they are herein varied) shall be conducted in the same manner.

Fire Arms, Carrying, etc. C. C. 118, 1135, 119, 120, 121, 125, 126, 127, 128.

Every one who, not being a justice, or a public officer, or soldier, sailor or volunteer in His Majesty's service on duty, or constable or other peace officer, and not having a certificate of exemption from the operation of the section, and not having at the time reasonable cause to fear an assault or other injury to his person, family or property, has upon his person a pistol or air-gun, elsewhere than in his own dwelling-house, shop, warehouse or counting-house, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding \$25, or not less than \$5, or to imprisonment for one month.

If sufficient cause be shown upon oath to the satisfaction of any justice, he may grant to an applicant, not under the age of 16 years, and of good character, a certificate of exemption from the opera-

tion of this section for such period, not exceeding twelve months, as he deems fit.

The justice shall make a return to the proper officer (the clerk of the peace) within ninety days after the certificate is granted, or be liable, on summary conviction, to a penalty of not more than ten dollars.

120. Every one who, when arrested, either on a warrant issued against him for an offence, or while committing an offence, has upon his person a pistol or air-gun, is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding \$50 and not less than \$20, or to imprisonment for any term not exceeding three months, with or without hard labour.

121. Every one who has upon his person a pistol or air-gun with intent therewith unlawfully to do injury to any other person, is liable, on summary conviction before two justices of the peace, to a fine not exceeding \$200 and not less than \$50, or to imprisonment not exceeding six months, with or without hard labour. *R. v. Mines*, 25 Ont. 577.

122. Every one who, without lawful excuse, points at another person any firearm, or air-gun, whether loaded or unloaded, is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding \$100, and not less than \$10, or to imprisonment for any term not exceeding thirty days, with or without hard labour.

125. It is not an offence for any soldier, sailor, public officer, peace officer or volunteer in His Majesty's service, constable or other policeman, to carry loaded pistols or other usual arms or offensive weapons in the discharge of his duty.

126. Every one attending any public meeting or being on his way to attend the same who, upon demand made by any justice of the peace within whose jurisdiction such public meeting is appointed to be held, declines or refuses to deliver up, peaceably and quietly, to such justice of the peace any offensive weapon with which he is armed, or which he has in his possession, is guilty of an indictable offence.

The justice of the peace may record the refusal and adjudge the offender to pay a penalty not exceeding eight dollars, or the offender may be proceeded against by indictment as in other cases of indictable offences.

119. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding \$50, who sells or gives any pistol or air-gun or any ammunition therefor to a minor under the age of 16 years, unless he shows that he used reasonable diligence to ascertain the age and that he had good reason to believe that such minor was not under the age of 16 years.

Penalty not exceeding \$25 for selling pistol or air-gun without keeping a record of such sale, the date thereof, and the name of purchaser and of the maker's

name, or other mark by which such arm may be identified.

C. C. 622. The court or justice before whom any person is convicted of any offence against sections 120 to 124 inclusive, shall impound the weapon for carrying which such person is convicted, and if the weapon is not a pistol, shall cause it to be destroyed.

2. If the weapon is a pistol, the court or justice shall cause it to be handed over to the corporation of the municipality in which the conviction takes place, for the public uses of such corporation.

3. If the conviction takes place where there is no municipality, the pistol shall be handed over to the Lieutenant-Governor of the province in which the conviction takes place, for the public uses thereof in connection with the administration of justice therein.

Fisheries Act. R. S. C. 1906, chap. 45.

SEC. 6. Fishery officers are ex officio Justices of the Peace within the district for which they are appointed.

SEC. 27. Close season for trout of any kind or lunge, in Saskatchewan, Alberta, N. W. Territories and Yukon Territory, between 1st October and 1st January.

SEC. 29. In the above Provinces or Territories, Indians may at any time catch or kill speckled trout for their own use only, but not for purposes of sale or traffic.

SEC. 31. Close season for whitefish in Saskatchewan, Alberta, N. W. Territories and Yukon Territory, between 20th October and 1st November each year.

Indians may there catch or kill the same for their use only, but not for purposes of sale or traffic.

SEC. 43. Close seasons for bass, pike, pickerel (doré), maskinonge and other fish, may be fixed by the Governor in Council to suit different localities.

SEC. 44. Every constable shall seize and, upon view, confiscate to his proper use, any fish mentioned in this Act, caught or killed during prohibited seasons, or which appears to have been killed by unlawful means.

2. Every such seizure and appropriation, with the date, place and circumstances thereof, shall together with the name, residence and calling of the person in whose possession such fish was found, be duly reported to the fishery officer of the district.

SEC. 45. Every dam, slide or other obstruction across, or in any stream, shall be provided by owner or occupier with a proper fish way.

Must be kept open and unobstructed.

Half cost of same may be paid by Dept to person erecting.

Must not be injured by anyone.

Place, form and capacity of fish way to be as prescribed by Fishery Officer.

SEC. 88. Depositing of lime, chemical substances or drugs, poisonous matter, dead or decaying fish or remnants thereof, mill rubbish or sawdust, in any water prohibited; liable for a first offence to a penalty of twenty dollars and costs; second offence, penalty not exceeding forty dollars and costs, and also in addition a further penalty not exceeding ten dollars for every day during which such offence is continued, and for a third or subsequent offence, to a penalty not exceeding \$100.00 and costs, and in addition a further penalty not exceeding twenty dollars for every day during which such offence is continued.

Foot-marks.

Where any offence has been committed and the delinquent has escaped, every effort must be made to find something by which his or her identity may be established.

They may often be done by foot-marks.

In some cases the proof of comparison of foot-marks has failed from the shoe or boot being put on the mark, when it is desirable to ascertain whether the foot-marks left at any place correspond with those of a person suspected. The shoe or boot used to compare should not be laid upon the foot-mark, but a separate impression is to be made with the shoe or boot, which may be compared with the foot-marks. Care must be

taken not to obliterate by walking over or near the foot-marks required for comparison.

A model may be taken of a foot-mark by pouring plaster of paris, or Spence's patent metal, into it, and allowing it to settle.

Forgery. C. C. 466, 495, 342.

Forgery is the making of a false document, knowing it to be false, with the intention that it shall in any way be used or acted upon as genuine to the prejudice of any one within Canada or not, or that some person should be induced, by the belief that it is genuine, to do or refrain from doing anything, whether within Canada or not.

Making a false document includes altering a genuine document in any material part, and making any material addition to it or adding to it any false date, attestation, seal or other thing which is material, or by making any material alteration in it, either by erasure, obliteration, removal or otherwise.

Forgery is complete as soon as the document is made with such knowledge and intent as aforesaid, though the offender may not have intended that any particular person should use or act upon it as genuine, or be induced by the belief that it is genuine, to do or refrain from doing anything.

Forgery is complete although the false document may be incomplete, or may not purport to be such a

document as would be binding in law, if it be so made as, and is such as to indicate that it was intended, to be acted on as genuine.

See C. C. s. 342 as to false trade descriptions.

Fugitives from Justice.

Whenever an application is made by a Colonial Government for the removal of an offender from Great Britain under the Fugitive Offenders (Great Britain) Act, it must be proved *by evidence* that the acts with which the accused is charged amount under the law in force in the British possession in question to an offence punishable by 12 months' imprisonment or some greater punishment.

The evidence which will be required will be either:—

(a) the evidence of an expert as to the colonial law given orally, or,

(b) the like evidence in the form of a deposition authenticated as required by Section 29 of the Fugitive Offenders (Great Britain) Act 1881, or,

(c) in the case of law contained in colonial statutes or ordinances, a copy of the document certified in accordance with Sec. 6 of the Colonial Laws Validity (Great Britain) Act, 1865. (28, 29 Vic. 63).

Any judge, advocate, barrister or solicitor, and any official in a position from which a knowledge of the law may be presumed is admissible as an expert

to prove the laws of his country. (Sec. of state despatch, 25th March, 1907.)

Forms for Laying Informations.

ASSAULT.

On.....at.....A assaulted (or assaulted and beat) me this deponent by.....

ASSAULT CAUSING ACTUAL BODILY HARM.

On.....at.....A did make an assault upon and beat and occasioned actual bodily harm to me this deponent by.....

AGGRAVATED ASSAULT.

On.....at.....A in and upon me this deponent did make an assault, with intent then and there to commit an indictable offence, namely (describe the offence intended).

OR

On.....at.....A in and upon me this deponent, a peace officer then and there engaged in the execution of his duty, to-wit, while (describe the duty performed) did unlawfully make an assault.

ATTEMPT TO COMMIT AN INDICTABLE OFFENCE.

At.....on.....about the hour of twelve at night, A unlawfully and burglariously did break and enter the dwelling-house of B there situated, with intent unlawfully and burglariously to steal the goods and chattels of the said B, then and there in the said dwelling-house (or with intent to commit in the said dwelling-house an indictable offence, to wit) (describe the offence).

HOUSE-BREAKING.

At.....on.....A unlawfully did break and enter by day the dwelling-house of B, there situated, and twelve silver forks of the value of twenty dollars, the property of the said B, then and there being found therein, did then and there unlawfully steal.

CAUSING DISTURBANCE BY BEING DRUNK.

At.....on.....A did cause a disturbance by being drunk in. (See Sub-sec. (f), Sec. 238 C. C.)

THEFT.

At.....on.....A did steal, take and carry away from
two sacks of oats of the value of \$....., the property
 of this deponent.

WAGES.

At.....in.....on the.....day of.....19...., one
did become truly and justly indebted to this complainant
 in the sum of \$.....in wages, for work done and labor per-
 formed for the said.....by said complainant between the
day of.....19... (not exceeding...months' wages),
 the said wages having been demanded, and the payment thereof
 refused, contrary to the Provisions of the Ordinance or Statute
 Respecting Masters and Servants.

INSANE.

At.....in.....on the.....day of.....19...., one
was insane and incapable of managing his own affairs,
 contrary to the Ordinance or Statute Respecting Insane Persons.

INTERDICTION.

At.....in.....one..... by excessive drinking of
 liquor misspends, wastes and lessens his estate, or greatly injures
 his health, or endangers or interrupts the peace and happiness of
 his family, contrary to section.....of the Ordinance or Statute
 Respecting..... Wherefore this informant prays that
 an order of Interdiction be issued against the said.....for
 the period of one year, as provided by the said ordinance.

Furious Driving. C. C. 285.

Every one is guilty of an indictable offence and
 liable to two years' imprisonment who, having the
 charge of any carriage or vehicle, by wanton or furi-
 ous driving, or racing or other wilful misconduct, or
 by wilful neglect, does or causes to be done any bodily
 harm to any person.

Gaming House, Common. C. C. 226.

Defined.

A common gaming house is—

(a) A house, room or place kept by any person for gain, to which persons resort for the purpose of playing at any game of chance; or of any mixed game of chance and skill; or

(b) A house, room or place kept or used for playing therein at any game of chance, or any mixed game of chance and skill, in which

(i) a bank is kept by one or more of the players exclusively of the others; or

(ii) in which any game is played the chances of which are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the game is managed, or against whom the other players stake, play or bet.

2. Any such house, room or place shall be a common gaming-house, although part only of such game is played there and any other part thereof is played at some other place, either in Canada or elsewhere, and although the stake played for, or any money, valuables, or property depending on such game, is in some other place, either Canada or elsewhere.

Under Sec. 641, Criminal Code, a special order is necessary to search a place suspected of being a com-

mon gaming-house, and the form of application for same and the form of order is given below.

To execute such order or warrant successfully every particular of the duty should be prearranged, so that each constable will know what he has to do, and the matter should be kept as secret as possible.

Attention is called to Sections 985 and 986 of the Criminal Code re "Evidence of a place being a common gaming house."

ROYAL NORTH-WEST MOUNTED POLICE.

Place
Date

To.....

Justice of the Peace,

Sir,—I have good grounds for believing, and do believe, that a room in the.....situated on.....in the..... is being used as a common gaming house as defined in part 5, section 226 of the Criminal Code of Canada.

I would therefore request that a warrant or order as defined in section 641 of the Criminal Code of Canada may be issued to me for the room as aforesaid.

I have the honor to be, sir,

Your obedient servant,

.....
Rank.....

Vide Criminal Code, Sec. 641.

CANADA,

ORDER.

To.....

Royal North-West Mounted Police.

Sir,

In compliance with your report to me in writing dated at..... in which you state that you have good grounds for believing and

do believe that.....is being used as a common gaming-house as defined in Part 5, Sec. 226, of the Criminal Code of Canada, and your request that a warrant or order as defined in Sec. 641 of the Criminal Code of Canada, be issued to you for such.....as aforesaid, I hereby authorize you and the Royal North-West Mounted Police to enter the said house, room or place, with such constables as are deemed requisite by you or them, and if necessary to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise, and to take into custody all persons who are found therein, and to seize, as the case may be, all tables and instruments of gaming or betting, and all monies and securities for monies, and bring the same before me or some other justice of the peace to be by me, or him, dealt with according to law.

Dated.....at.....in the..... this.....
day of19....

A justice of the peace in and for

COMMON BETTING-HOUSE DEFINED. C. C. 227.

227. A common betting-house is a house, office, room or other place,—

(a) Opened, kept or used for the purpose of betting between persons resorting thereto, and

(i) the owner, occupier or keeper thereof;

(ii) any person using the same;

(iii) any person procured or employed by, or acting for or on behalf of any such person;

(iv) any person having the care or management, or in any manner conducting the business thereof; or

(b) Opened, kept or used for the purpose of any money or valuable thing being received by or on behalf of any such person as aforesaid, as or for the consideration.

(i) for any assurance or undertaking, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of, or relating to any horse race or other race, fight, game or sport; or

(ii) for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency.

(c) Opened, or kept for the purpose of recording or registering bets upon any contingency or event, horse race or other race, fight, game or sport, or for the purpose of receiving money or other things of value to be transmitted for the purpose of being wagered upon any such contingency or event, horse race, or other race, fight, sport or game, whether any such bet is recorded or registered there, or any money or other thing of value is there received to be so transmitted or not;

(d) Opened, kept or used for the purpose of facilitating or encouraging or assisting in, the making of bets upon any sports, by announcing the betting upon, or announcing or displaying the results of, horse races or other races, fights, games or sports, or in any other manner, whether such contingency or event, horse race or other race, fight, game or sport, occurs or takes place in Canada or elsewhere. 58 & 59 Vic. c. 40.

DISORDERLY HOUSE. C. C. 228.

228. Every one is guilty of an indictable offence and liable to one year's imprisonment, who keeps any disorderly house, that is to say, any common bawdy house, common gaming house or common betting house, as hereinbefore defined.

Any one who appears, acts or behaves as master or mistress, or as the person having the care, government or management, of any disorderly house, shall be deemed to be the keeper thereof, and shall be liable to be prosecuted and punished as such, although in fact he or she is not the real owner or keeper thereof.

See Part 16 C. C., "Summary trial of Indictable Offences," sec. 773 for jurisdiction of magistrates, in re keepers, inmates, habitual frequenters of disorderly houses, houses of ill-fame or bawdy houses. "Bawdy house" defined by section 225 C. C. A common bawdy house is a house, room, set of rooms, or place of any kind kept for purposes of prostitution or occupied or resorted to by one or more persons for such purposes.

PLAYING OR LOOKING ON IN GAMING-HOUSE.

229. Every one who plays or looks on while any other person is playing in a common gaming-house is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars and not less than twenty dollars, and in default of payment to two months' imprisonment.

OBSTRUCTING A PEACE OFFICER ENTERING A GAMING-
HOUSE. C. C. 230.

230. Every one is guilty of an offence and liable, on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars, with costs, and to six months' imprisonment with or without hard labour, who

(a) wilfully prevents any constable or other officer duly authorized to enter any disorderly house as mentioned in s. 228 from entering the same, or any part thereof; or

(b) obstructs or delays any such constable or officer in so entering; or

(c) by any bolt, chain or other contrivance secures any external or internal door of, or means of access to, any common gaming-house so authorized to be entered; or

(d) uses any means, or contrivance whatsoever, for the purpose of preventing, obstructing or delaying the entry of any constable or officer, authorized as aforesaid, into any such disorderly house, or any part thereof. See C. C. 985-986.

Gaming in Stocks or Merchandise. See C. C. 231, 232, 233.

Gaming in Public Conveyances. C. C. 234.

234. Every one is guilty of an indictable offence and liable to one year's imprisonment who

(a) in any railway car or steamboat, used as a public conveyance for passengers, by means of any game of cards, dice or other instrument of gambling, or by any device of like character, obtains from any other person any money, chattel, valuable security or property; or

(b) attempts to commit such offence by actually engaging any person in any such game with intent to obtain money or other valuable thing from him.

2. Every conductor, master or superior officer in charge of, and every clerk or employee, when authorized by the conductor or superior officer in charge of, any railway train or steamboat, station or landing place in or at which any such offence, as aforesaid, is committed or attempted, must, with or without warrant, arrest any person whom he has good reason to believe to have committed or attempted to commit the same, and take him before a justice of the peace, and make complaint of such offence on oath, in writing.

3. Every conductor, master or superior officer in charge of any such railway car or steamboat, who makes default in the discharge of any such duty is liable, on summary conviction, to a penalty not exceeding one hundred dollars, and not less than twenty dollars.

4. Every company or person who owns or works any such railway car or steamboat must keep a copy of this section posted up in some conspicuous part of such railway car or steamboat.

5. Every company or person who makes default in the discharge of such duty is liable to a penalty not exceeding one hundred dollars, and not less than twenty dollars.

Guilty Knowledge.

A person doing an act which he knows to be contrary to law, and likely to produce a certain result, and having a desire to attain that end, is said to have a guilty knowledge.

Gaoler's Receipt. C. C. 704. Form 30.

The gaoler shall give a receipt to a constable who delivers a prisoner over to said gaoler.

I hereby certify that I have received from W. T., constable R. N. W. M. P., the body of A. B., together with a warrant, under the hand and seal of I. S., Esquire, justice of the peace for said _____, and that the said A. B. was sober (or as the case may be), at the time he was delivered into my custody.

P. K.,

Keeper of the common gaol of.....

Constables attending Court.—Supreme Court.

A constable having to attend at the Supreme Court is expected to present himself at the Court at the hour for which he is notified to appear, and on each subsequent day so long as the trial lasts, at the hour appointed for the opening of the Court.

He is to be prepared to produce in Court all necessary papers or property relating to the case in which he is concerned.

Constables when giving evidence are to stand in an upright, respectful manner, speaking calmly and explicitly, in a clear, distinct and audible tone, so that the Court and jury may easily hear them. They are to confine themselves strictly to evidence in the case before the Court, and be prepared with any notes of the circumstances which they may have made at the time of the occurrence, keeping also constantly in mind the depositions which they signed before the justice, with which their evidence at the trial should exactly agree. They are not to use any low or cant expressions. They are not to refer to any former conviction against the prisoner unless called on by the judge to do so. When cross-examined by counsel for the prisoner they are to answer with the same readiness and civility as when giving evidence in support of the charge, remembering that the manner or insinuations of the counsel are not to affect them, and that the ends of justice will be best forwarded by their showing a desire simply to tell the whole truth, whether in favour of or against the prisoner. Constables are to restore the goods subject of the indictment, on an order being made by the Court, and a receipt taken therefor.

Constables concerned in cases, attending the Court, are to endeavour as much as possible to keep the prosecutor and Crown witnesses ready to appear in Court at any moment the case may be called on; and constables are not to leave without permission,

Magistrates' or Justices' Courts.

Constables are to observe the utmost attention and respect towards justices of the peace at all times. They are not to enter into conversations with, or make statements when before a justice, except as evidence, or respecting a case under investigation. They are to be punctual in their attendance at the hour for transacting business.

If a prisoner, prosecutor or material witness, through drunkenness or any other cause, is unfit to appear in court, a report to that effect is to be made to the presiding justice before the individual appears in court.

Strict order and decorum is to be observed at the court.

The constable acting as orderly upon the order of the justice declares the court open as follows:—

“I declare this Court open in the name of the King,” in a loud, clear voice.

The constable must be correctly dressed, clean and smart in appearance.

If he is the only constable present, he is responsible for the custody of the prisoner or prisoners.

He will formally close the court, upon the justice's order when the trial or hearing is concluded, or when there is an adjournment, using the words:—

“ I declare this court closed (or adjourned) untilat.....o'clock (A. or P. M.). God save the King.”

Habeas Corpus. (That you have the body to answer.)

This, the most celebrated prerogative writ in the English law, is a remedy for a person deprived of liberty.

It is addressed to him who detains another in custody, and commands him to produce the body, with the day and cause of his capture and detention, and to do, submit to, and receive whatever the judge or Court shall consider in that behalf.

Handcuffs.

Handcuffs are not to be used except in cases of necessity, when a prisoner is desperate or likely to attempt to escape when being conveyed before the justices and to gaol.

A constable should treat without unnecessary hardship or restraint, and should not handcuff, any one when he has no reason to fear an escape, and when the person is behaving peaceably; he is very reprehensible if he do so. (Wilson, p. 24.)

The constable is, however, responsible for the safe custody of the prisoner, and he must exercise his judgment in a great measure. Persons in custody for crimes of violence may well be handcuffed.

It has been laid down that a constable has no right to handcuff a prisoner taken on suspicion of

felony, unless he attempt to escape, or except it is necessary in order to prevent his escaping, and that a constable is not justified in handcuffing a prisoner arrested for assault. (4 B. & C. 596; 1 F. & F. 317.)

Hearsay.

Hearsay evidence, whether spoken or written, of a fact is not admissible. It is extremely difficult to give a good practical definition of what is called "hearsay evidence" as applicable to criminal inquiries. The best, perhaps, is that "hearsay" is not "evidence," and that hearsay means, as its name implies, something which *another person—not the person charged with an offence—may have been "heard" to "say" not in the presence or hearing of the person charged*; and therefore a constable in a witness box should be careful to state only facts which have come under his own observation, not the statements of other persons to him of what such other persons have seen or heard.

Homicide.

Homicide is the killing of a human being by another, directly or indirectly, by any means whatsoever.

Housebreaking. C. C. 458.

Every one is guilty of the indictable offence called housebreaking, and liable to fourteen years' imprisonment, who—

Breaks and enters any dwelling-house by day and commits any indictable offence therein; or

Breaks out of any dwelling-house by day after having committed any indictable offence therein.

“Housebreaking” means breaking and entering a dwelling house *by day* and committing an indictable offence.

“Dwelling house” means a permanent building, the whole or any part of which is kept by the owner or occupier for his residence.

“Break” means to break any part, internal or external, of a building, or to open by any means whatever, any door, window, shutter, cellar flap, or other thing intended to cover openings to a building, or give passage from one part of it to another.

Housebreaking Instruments, in Possession of. C. C.
463, 464.

463. Every one is guilty of an indictable offence, and liable to seven years' imprisonment, who is found—

Armed with any dangerous or offensive weapon or instrument by day, with intent to break or enter into any dwelling-house, and to commit any indictable offence therein; or

Armed as aforesaid by night, with intent to break into any building and to commit any indictable offence therein.

464. Every one is guilty of an indictable offence, and liable to five years' imprisonment, who is found—

Having in his possession by night, without lawful excuse (the proof of which shall lie upon him), any instrument of housebreaking; or

Having in his possession by day any such instrument with intent to commit any indictable offence; or

Having his face masked or blackened, or being otherwise disguised, by night, without lawful excuse (the proof whereof shall lie on him); or

Having his face masked or blackened, or being otherwise disguised, by day, with intent to commit any indictable offence.

DEFENCE OF DWELLING-HOUSE. C. C. 59.

59. Every one who is in peaceable possession of a dwelling-house, and every one lawfully assisting him or acting by his authority, is justified in using such force as is necessary to prevent the forcible breaking and entering of such dwelling-house, either by night or day, by any person with the intent to commit any indictable offence therein.

See Horrigan, Cases on Self-defence, 749.

DEFENCE OF DWELLING-HOUSE AT NIGHT. C. C. 60.

60. Every one who is in peaceable possession of a dwelling-house, and every one lawfully assisting him or acting by his authority, is justified in using such

force as is necessary to prevent the forcible breaking and entering of such dwelling-house by night by any person, if he believes, on reasonable and probable grounds, that such breaking and entering is attempted with the intent to commit any indictable offence therein.

Ignorance of the Law.

Section 22 of the Criminal Code says that the fact that an offender is ignorant of the law is not an excuse for any offence committed by him.

Crankshaw, in his *Magistrates' Manual*, says:—
“The general principle that every person is presumed to know the law is so strong that it has been held to be no defence for a foreigner charged with a crime committed in England, to show that the act was no offence in his own country, and that he did not know that he was doing wrong in doing it in England.”

An exception to this general rule is found in Sec. 29 of the Code, which directs that a person acting under a bad warrant shall, if he, in good faith and without culpable ignorance and negligence, believes it to be good in law, be protected from criminal responsibility, and that ignorance of the law shall in such a case be an excuse.

Though a mistake or ignorance of the law is no defence for a party charged with a criminal act, it may be ground for an application to the merciful consideration of the government.

Immigration Act. R. S. C. 1906, chap. 93.

SEC. 33. Whenever in Canada an immigrant has within two years of his landing in Canada committed a crime involving moral turpitude, or becomes an inmate of a jail or hospital or other charitable institution, it shall be the duty of the clerk or secretary of the municipality to forthwith notify the Minister (Interior) thereof, giving full particulars.

Incest. C. C. 204.

Every parent and child, every brother and sister, and every grandparent and grandchild, who cohabit or have sexual intercourse with each other, shall each of them, if aware of their consanguinity, be deemed to have committed incest, and be guilty of an indictable offence and liable to fourteen years' imprisonment, and the male person shall also be liable to be whipped: Provided that, if the court or judge is of opinion that the female accused is a party to such intercourse only by reason of the restraint, fear or duress of the other party, the court or judge shall not be bound to impose any punishment on such person under this section.

R. S. N. B. c. 145, punishment 14 years; P. E. I. 24 Vic. c. 27, punishment 21 years; R. S. N. S. c. 160, punishment 2 years.

A verdict of common or indecent assault may be given, C. C. 292, 294, 291, if the evidence warrants it, under C. C. 95.

Indecent Acts. C. C. 205.

205. Every one is guilty of an offence and liable, on summary conviction before two justices of the peace, to a fine of fifty dollars or to six months' imprisonment with or without hard labour, or to both fine and imprisonment, who wilfully,

(a) in the presence of one or more persons does any indecent act in any place to which the public have or are permitted to have access; or

(b) does an indecent act in any place intending thereby to insult or offend any person.

Indecency, Acts of Gross. C. C. 206.

206. Every male person is guilty of an indictable offence, and liable to five years' imprisonment and to be whipped, who, in public or private, commits, or is a party to the commission, or procures, or attempts to procure, the commission by any male person of any act of gross indecency with another male person.

Fine and sureties, C. C. 1035-1058.

Attempt. C. C. 949.

Infant under 16 years not to be tried until parent or guardian is notified. C. C. 779.

Indian Act (Excerpts from). Chap. 81, R. S. C. 1906.**Section 2—**

(b) The expression "Agent" or "Indian Agent" means and includes a commissioner, assistant commis-

sioner, superintendent, agent or other officer acting under the instructions of the Superintendent-General;

(c) The expression "person" means any individual other than an Indian;

(d) The expression "band" means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible;

(e) The expression "irregular band" means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, and who have not had any treaty relations with the Crown;

(f) The expression "*Indian*" means:—

First.—Any male person of Indian blood reputed to belong to a particular band;

Secondly.—Any child of such person.

Thirdly.—Any woman who is or was lawfully married to such person;

(g) The expression "*non-treaty Indian*" means any person of Indian blood who is reputed to belong to any irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada;

(*l*) The expression “intoxicants” means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, and opium and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them are liquid or solid.

(*i*) The expression “Reserve” means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains a portion of the said reserve, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein;

(*j*) The expression “Special Reserve” means any tract or tracts of land, and everything belonging thereto, set apart for the use or benefit of any band or irregular band of Indians, the title of which is vested in a society, corporation, or community legally established, and capable of suing and being sued, or in a person or persons of European descent.

(*k*) The expression “Indian Lands” means any reserve or portion of a reserve which has been surrendered to the Crown.

SEC. 14. Any Indian woman who marries any person other than an Indian or non-treaty Indian

shall cease to be an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged in the annual or semi-annual distribution of their annuities. (Chap. 43, 49 V.)

SEC. 135. Every one who by himself, his clerk, servant or agent, and every one who in the employment or on the premises of another, directly or indirectly, on any pretense or by any device, sells, barter, supplies or gives to any Indian or non-treaty Indian or any person, male or female, who is reputed to belong to a particular band, or, who follows the Indian mode of life, or any child of such person, any intoxicant, or causes or procures the same to be done, or attempts the same, or connives thereat, or opens or keeps, or causes to be opened or kept on any reserve or special reserve, a tavern house or building in which any intoxicant is sold, supplied or given, or is found in the possession of any intoxicant in the house, tent, wigwam or place of abode of any Indian or non-treaty Indian, or of any person, on any reserve or special reserve, or sells, barter, supplies or gives to any person on any reserve or special reserve any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate, or two justices of the peace, or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding three hundred

dollars and not less than fifty dollars, with costs of prosecution, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justices of the peace or Indian agent; a moiety of every such penalty shall belong to the informer or prosecutor, and the other moiety thereof to His Majesty, to form part of the fund for the benefit of that body of Indians or non-treaty Indians, with respect to one or more members of which the offence was committed. 51 V. C. 22.

2. In this section the expression "Indian," in addition to its ordinary signification, as defined in Sec. 2 of this (Indian) Act, shall extend to and include any person, male or female, who is reputed to belong to a particular band, or who follows the Indian mode of life, or any child of such person.

SEC. 137. Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession or concealed, or who sells, exchanges with, barter or supplies or gives to any other Indian or non-treaty Indian, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate, or two justices of the peace, or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding one hundred dollars and not less than twenty-five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge,

magistrate or justices of the peace, or Indian agent. 43 V. c. 28, s. 90, part.

SEC. 138. No penalty shall be incurred when the intoxicant is made use of in case of sickness under the sanction of a medical man or under the directions of a minister of religion. (43 V. c. 28, s. 90.) And the burden of proof that the intoxicant has been so made use of shall be on the accused. 53 V. c. 29, s. 8.

SEC. 139. Any constable or peace officer may arrest without warrant any person or Indian found gambling or drunk, or with intoxicants in his possession, on any part of a reserve, and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable, upon summary conviction, to imprisonment for a term not exceeding three months, or to a penalty not exceeding fifty dollars, and not less than ten dollars, with costs of prosecution, half of such pecuniary penalty shall belong to the informer. 57, 58 V. c. 32, s. 7.

SEC. 144. Every Indian who is found in a state of intoxication shall be liable, on summary conviction thereof, to imprisonment for any term not exceeding one month, or to a penalty not exceeding thirty dollars, and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justices of the peace, or Indian agent.

SEC. 145. Any constable or other peace officer may, without warrant, arrest any Indian or non-treaty

Indian found in a state of intoxication, and convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought for trial before any judge, police magistrate, stipendiary magistrate, or justice of the peace, or Indian agent. 50, 51 V. c. 33, s. 10.

SEC. 146. If any Indian or non-treaty Indian who has been convicted (under Sec. 144) refuses, upon examination, to state or give information of the person, place and time from whom, where and when he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid, for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment, in the discretion of the convicting officer.

NOTE.—Referring to S. 145, in so far as it relates to non-treaty Indians found in a state of intoxication, and arrested without warrant, for which no punishment is provided therein. Sub-sec. 2 of Sec. 1052 of the Criminal Code, which reads as under, covers the matter;—

Sub-sec. 2 enacts that “Every one who is summarily convicted of any offence for which no punishment is specially provided, shall be liable to a penalty

not exceeding \$50, or to imprisonment with or without hard labour for a term not exceeding six months, or both."

Prostitution of Indian Women. Sec. 220, Crim. Code.

Everyone is guilty of an indictable offence, and liable to a penalty not exceeding \$100, and not less than \$10, or six months imprisonment—

(a) who, being the keeper of any house, tent or wigwam, allows or suffers any unenfranchised Indian woman to be or remain in such house, tent or wigwam, knowing or having probable cause for believing that such Indian woman is in or remains in such house, tent or wigwam with the intention of prostituting herself therein; or

(b) who, being an Indian woman, prostitutes herself therein; or

(c) who, being an unenfranchised Indian woman, keeps, frequents or is found in a disorderly house, tent or wigwam used for any such purpose.

2. Every person who appears, acts or behaves as master or mistress, or as the person who has the care or management, of any house, tent or wigwam in which any such Indian woman is or remains for the purpose of prostituting herself therein, is deemed to be the keeper thereof, notwithstanding he or she is not in fact the real keeper thereof.

Whenever practicable, charges or offences against Indians will be brought before Indian agents for disposal. (Cir. 437, 20. 8. '03.)

When an Indian is committed for trial before the Supreme Court, the agent of the reserve to which he belongs is to be notified. (G. O. 204, 1. 3. '05.)

Indian Graves. Sec. 385 C. C.

To steal or unlawfully injure or remove any image, bone article or thing deposited in or near any Indian grave is an offence punishable, on summary conviction, by a penalty of \$100, or three months' imprisonment, for a first offence, and to the same penalty and six months' imprisonment with hard labour for a subsequent offence.

Indemnity.

Whenever property is given up by police about which any question may, by the remotest possibility, arise, an indemnity should invariably be taken from the person to whom it is given up. It may be in the following form:—

"I.....of....., do hereby acknowledge to have received from.....the following articles, viz.:
.....valued at....., and in consideration thereof, do hereby agree to indemnify and hold harmless the said..... and all others, his superior officers, from all claims and demands whatsoever to be made in respect of the articles aforesaid.

As witness my hand this.....day of.....19....
Witness.

Identification of Criminals.

By Sec. 2 of the *Criminals' Identification Act*, R. S. C. 1906, Chap. 149, it is enacted that any person in lawful custody, charged with, or under conviction

of an INDICTABLE OFFENCE, may be subjected, by or under the direction of those in whose custody he is, to the measurements, processes and operations practiced under the system for the identification of criminals commonly known as the Bertillon Signaletic System, or to any measurements, processes or operations sanctioned by the Governor-in-Council having the like object in view. Such force may be used as is necessary to the effectual carrying out and application of such measurements, processes and operations; and the signaletic cards and other results thereof may be published for the purpose of affording information to officers and others engaged in the execution or administration of the law.

By section 3 of the Act, it is provided that, no one having the custody of any such person, and no one acting in his aid or under his direction, and no one concerned in such publication, shall incur any liability, civil or criminal, for anything lawfully done under the provisions of this Act.

Insane Persons.

Constables are to arrest and charge before the nearest justice any person who is evidently insane, found wandering, and not under proper control.

If called to take into custody an insane person, under the control of friends, they are not to do so, but are to refer the persons applying to the nearest justice for a warrant.

If, however, the insane person becomes violent and likely to injure himself or his friends, a constable may assist in restraining him until the justice is communicated with.

Justification of Bail.

Justifying bail is proving the sufficiency of bail, or sureties, in point of property.

FORM OF JUSTIFICATION.

I.....of.....in the (Province or Territory), for myself make oath and say: that I am possessed of goods and chattels in the (Province or Territory, of the value ofdollars (exclusive of legal exemptions) over and above all my just debts and liabilities.

Sworn before me at.....

this....day of..... 19....

King's Evidence.

An accomplice in a crime may be accepted as a witness against his companions in guilt but his evidence must be corroborated.

Larceny, now Theft. C. C. 344 to 388.

Larceny has been defined to mean the felonious taking the property of another without his consent and against his will, with intent to convert it to the use of the taker. See Theft.

There is now no crime designated in Canada by the word "larceny."

Leading Questions.

Leading questions are those which suggest their answer. In legal proceedings they can only be put in cross-examination, save by permission of the Court.

Leading questions put by constables to person under the excitement occasioned by a loss of property often provoke misleading and erroneous answers. People should be allowed to tell their own story as far as possible.

Leaving holes in the ice unguarded. C. C. 287.

Every one is guilty of an offence and liable, on summary conviction, to a fine or imprisonment with or without hard labour (or both) who—(See foot note.)

(a) cuts or makes, or causes to be cut or made, any hole, opening, aperture or place, of sufficient size or area to endanger human life, through the ice on any navigable or other water open to or frequented by the public, and leaves such hole, opening, aperture or place, while it is in a state dangerous to human life, whether the same is frozen over or not, uninclosed by bushes or trees or unguarded by a guard or fence of sufficient height and strength to prevent any person from accidentally riding, driving, walking, skating or falling therein; or

(c) omits within five days after conviction of any such offence to make the inclosure aforesaid, or to construct around or over such opening a guard or fence of such height and strength.

2. Every one whose duty it is to guard such hole, opening, aperture or place is guilty of manslaughter, if any person loses his life by accidentally falling therein while the same is unguarded. (R. S. C. c. 162, s. s. 29, 30, 31 and 32.)

NOTE.—See Sub-sec. 2, Sec. 1052, Criminal Code, as follows:—

2. Every one who is summarily convicted of any offence for which no punishment is specially provided shall be liable to a penalty not exceeding \$50, or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both.

Lord's Day Act. R. S. C. 1906, chap. 153.

2. In this Act, unless the context otherwise requires—

(a) “The Lord's Day” means the period of time which begins at 12 o'clock on Saturday afternoon and ends at 12 o'clock on the following afternoon.

(b) “Person” has the meaning which it has in the Criminal Code.

(c) “Vessel” includes any kind of vessel or boat used for conveying passengers or freight by water.

(d) “Railway” includes steam railway, electric railway, street railway and tram railway.

(e) “Performance” includes any game, match, sport, contest, exhibition, or entertainment.

(f) "Employer" includes every person to whose orders or directions any other person is by his employment bound to conform.

(g) "Provincial Act" means the charter of any municipality or any public Act of any Province, whether passed before or since Confederation.

3. Nothing herein shall prevent the operation on the Lord's Day for passenger traffic of any railway company incorporated by or subject to the legislative authority of the Parliament of Canada of its railway where such operation is not otherwise prohibited.

(2) Nothing herein shall prevent the operation on the Lord's Day for passenger traffic by any railway subject to the legislative authority of any Province unless such railway is prohibited by provincial authority from so operating.

4. This Act shall come into force on the 1st day of March, 1907.

5. It shall not be lawful for any person on the Lord's Day, except as provided herein or in any Provincial Act or law now or hereafter in force, to sell or offer for sale or purchase any goods, chattels, or other personal property, or any real estate, or to carry on or transact any business of his ordinary calling, or in connection with such calling, or for gain to do, or employ any other person to do, on that day, any work, business or labor.

6. Except in cases of emergency, it shall not be lawful for any person to require any employee en-

gaged in any work described in paragraph (c) of section 3 of this Act, or in the work of any industrial process or in connection with transportation, to do on the Lord's day the usual work of his ordinary calling, unless such employee is allowed during the next six days of such week 24 consecutive hours without labor.

(2) This section shall not apply to any employee engaged in the work of any industrial process in which the regular day's labor of such employee is not of more than eight hours' duration.

7. It shall not be lawful for any person, on the Lord's Day, except as provided in any Provincial Act or law now or hereafter in force, to engage in any public game or contest for gain, or for any prize or reward, or to be present thereat, or to provide, engage in, or be present at any performance or public meeting, elsewhere than in church, at which any fee is charged, directly or indirectly, either for admission to such performance or meeting, or to any place within which the same is provided, or for any service or privilege thereat.

(2) When any performance at which an admission fee or any other fee is so charged is provided in any building or place to which such persons are conveyed for hire by the proprietors or managers of such performance, or by any one acting as their agent or under their control, the charge for such conveyance shall be deemed an indirect payment of such fee within the meaning of this section.

8. It shall not be lawful for any person on the Lord's Day, except as provided by any Provincial Act or law now or hereafter in force, to run, conduct or convey by any mode of conveyance any excursion on which passengers are conveyed for hire, and having for its principal or only object the carriage on that day of such passengers for amusement or pleasure, and passengers so conveyed shall not be deemed to be travellers within the meaning of this Act.

9. It shall not be lawful for any person to advertise in any manner whatsoever any performance or other thing prohibited by this Act.

(2) It shall not be lawful for any person to advertise in Canada in any manner whatsoever any performance or other thing which if given or done in Canada would be a violation of this Act.

10. It shall not be lawful for any person on the Lord's Day to shoot with or use any gun, rifle or other similar engine, either for gain or in such a manner or in such places as to disturb other persons in attendance at public worship or in the observance of that day.

11. It shall not be lawful for any person to bring into Canada for sale or distribution, or to sell or distribute within Canada, on the Lord's Day, any foreign newspaper or publication classified as a newspaper.

12. Notwithstanding anything herein contained, any person may on the Lord's Day do any work of

necessity or mercy, and for greater certainty, but not so as to restrict the ordinary meaning of the expression "work of necessity or mercy," it is hereby declared that it shall be deemed to include the following classes of work:—

(a) Any necessary or customary work in connection with divine worship.

(b) Work for the relief of sickness and suffering, including the sale of drugs, medicines and surgical appliances by retail.

(c) Receiving, transmitting or delivering telegraph or telephone messages.

(d) Starting or maintaining fires, making repairs to furnaces and repairs in cases of emergency, and doing any other work, when such fires, repairs or work are essential to any industry or industrial process of such a continuous nature that it cannot be stopped without serious injury to such industry or its product or to the plant or property used in such process.

(e) Starting or maintaining fires, and ventilating, pumping out and inspecting mines, when any such work is essential to the protection of property, life or health.

(f) Any work without the doing of which on the Lord's Day, electric current, light, heat, cold air, water or gas cannot be continuously supplied for lawful purposes.

(g) The conveying of travellers and work incidental thereto.

(h) The continuance to their destination of trains and vessels in transit when the Lord's Day begins, and work incidental thereto.

(i) Loading and unloading merchandise at intermediate points, on or from passenger boats or passenger trains.

(j) Keeping railway tracks clear of snow or ice; making repairs in cases of emergency, or doing any other work of a like incidental character necessary to keep the lines and tracks open on the Lord's Day.

(k) Work before 6 o'clock in the forenoon and after 8 o'clock in the afternoon of yard crews in handling cars in railway yards.

(l) Loading, unloading and operating any ocean-going vessels which otherwise would be unduly delayed after her scheduled time of sailing, or any vessel which otherwise would be in imminent danger of being stopped by the closing of navigation; or loading or unloading before 7 o'clock in the morning or after 8 o'clock in the afternoon any grain, coal or ore-carrying vessels after the 15th day of September.

(m) The caring for milk, cheese, and live animals, and the unloading and caring for perishable products and live animals arriving at any point during the Lord's Day.

(*n*) The operation of any toll or drawbridge or any ferry or boat, authorised by competent authority to carry passengers on the Lord's Day.

(*o*) The hiring of horses and carriages or small boats for the personal use of the hirer or his family for any purpose not prohibited by this Act.

(*p*) Any unavoidable work after 6 o'clock in the afternoon of the Lord's Day in preparation of the regular Monday morning edition of a daily newspaper.

(*q*) Conveying His Majesty's mails and work incidental thereto.

(*r*) The delivery of milk for domestic use, and the work of domestic servants and watchmen.

(*s*) The operation by any Canadian electric street railway company, whose line is interprovincial or international, of its cars, for passenger traffic, on the Lord's Day, on any line or branch now regularly so operated.

(*t*) Work done by any person in the public service of His Majesty while acting therein under any regulation or direction of any department of the Government.

(*u*) Any unavoidable work by fishermen after 6 o'clock in the afternoon of the Lord's Day in the taking of fish.

(*v*) All operations connected with the making of maple sugar and maple syrup in the maple grove.

(w) Any unavoidable work on the Lord's Day to save property in cases of emergency or where such property is in imminent danger of destruction or serious injury.

(x) Any work which the Board of Railway Commissioners for Canada, having regard to the object of this Act and with the object of preventing undue delay, deem necessary to permit in connection with the freight traffic of any railway.

13. Every person who violates any of the provisions of this Act shall for each offence be liable, on summary conviction, to a fine, not less than one dollar and not exceeding forty dollars, together with the cost of prosecution.

14. Every employer who authorizes or directs anything to be done in violation of any provision of this Act, shall for each offence be liable, on summary conviction, to a fine not exceeding one hundred dollars and not less than twenty dollars, in addition to any other penalty prescribed by law for the same offence.

15. Every corporation which authorizes, directs or permits its employees to carry on any part of the business of such corporation in violation of any of the provisions of this Act, shall be liable, on summary conviction before two justices of the peace, for the first offence to a penalty not exceeding two hundred and fifty dollars and not less than fifty dollars, and for each subsequent offence to a penalty not exceed-

ing five hundred dollars and not less than one hundred dollars, in addition to any other penalty prescribed by law for the same offence.

16. Nothing herein shall be construed to repeal or in any way affect any provisions of any Act or law relating in any way to the observance of the Lord's Day in force in any Province of Canada when this Act comes into force; and where any person violates any of the provisions of this Act, and such offence is also a violation of any other Act or law, the offender may be proceeded against either under the provisions of this Act or under the provisions of any other Act or law applicable to the offence charged.

17. No action or prosecution for a violation of this Act shall be commenced without the leave of the Attorney-General for the Province in which the offence is alleged to have been committed, nor after the expiration of sixty days from the time of the commission of the alleged offence.

R. S. C. 1906, chap. 1, s. 34, s. s. (22), "province" includes the Northwest Territories as now or hereafter constituted, the district of Keewatin, and the Yukon Territory.

In Saskatchewan and Alberta, application must be made to the Attorney-General for leave to prosecute in any specific case, through the officer commanding the district, who will communicate direct with the Attorney-General.

The permission of the Attorney-General should be obtained before information is laid.

The application for leave to prosecute should consist of a statutory declaration, setting forth sufficient facts to make a *prima facie* case of violation of the Lord's Day Act. Attached to this declaration should be an exhibit giving a report, in concise form of the circumstances of the case.

In the North West Territories and the Yukon leave to prosecute must be had from the Attorney-General for Canada. Application for this should be made through the Comptroller R. N. W. M. P.

Malice.

Malice is a formed design of doing mischief to another person.

Malicious Injury to Property.

See Mischief. By the Criminal Code, this term is now changed to that of mischief. C. C. 509-541.

Manslaughter. C. C. 262 and 268.

Culpable homicide not amounting to murder is manslaughter.

Every one who commits manslaughter is guilty of an indictable offence and liable to imprisonment for life.

Memorandum Book.

Every constable shall keep a memorandum book, in which he will write on the first page his Reg. No.

and name. He will also enter particulars of duties respecting arrest, occurrences, etc., all of which will be made at the time. This book may be demanded of the constable at any time.

Morality, offences against. C. C. ss. 202-220.

See Incest; Indecent Acts; Theatre; Obscene Matter.

Murder. C. C. s. 259.

Culpable homicide is murder in each of the following cases:—

If the offender means to cause the death of the person killed.

If the offender means to cause to the person killed any bodily injury which is known to the offender to be likely to cause death, and is reckless whether death ensues or not.

If the offender means to cause death, or, being so reckless as aforesaid, means to cause such bodily injury as aforesaid to one person, and by accident or mistake kills another person, though he does not mean to hurt the person killed.

If the offender, for any unlawful object, does an act which he knows or ought to have known to be likely to cause death, and thereby kills any person, though he may have desired that his object should be effected without hurting any one.

Further: Culpable homicide is also murder in each of the following cases, whether the offender means or not death to ensue, or knows or not that death is likely to ensue:—

If he means to inflict grievous bodily injury for the purpose of facilitating the commission of any of the offences in this section mentioned, or the flight of the offender upon the commission or attempted commission thereof, and death ensues from such injury; or

If he administers any stupefying or overpowering thing for either of the purposes aforesaid, and death ensues from the effects thereof; or

If he by any means wilfully stops the breath of any person for either of the purposes aforesaid, and death ensues from such stopping of the breath.

When a murder has been committed, immediate steps are to be taken, and all possible enquiries made, to apprehend the perpetrator, and obtain all particulars for the information of the coroner or justice.

Neglecting to aid in Arresting Offenders. C. C. 95,
167.

167. Every one is guilty of an indictable offence and liable to six months' imprisonment who, having reasonable notice that he is required to assist any peace officer, in the execution of his duty in arresting any person, or in preserving the peace, without reasonable excuse omits so to do. See also C. C. 95.

Neglecting to provide for Wife, Child, Servant, etc.

C. C. ss. 241 to 244.

241. Every one who has charge of any other person unable by reason of detention, age, sickness or insanity or any other cause, to withdraw himself from such charge, and unable to provide himself with the necessaries of life, is under a legal duty to supply that person with the necessaries of life, and is criminally responsible for omitting, without lawful excuse, to perform such duty if the death of such person is caused, or his life endangered, or health injured by such omission.

242. Every one is likewise responsible, who as parent, guardian or head of a family is under a legal duty to provide:—

(a) Necessaries for any child under sixteen years of age.

(b) Necessaries for his wife.

243. Has contracted to provide necessary food, clothing or lodging for any servant or apprentice under the age of sixteen years.

Notes.

Notes made at the time, or soon after, an occurrence or criminal inquiry may be referred to in giving evidence, but the practice is not desirable, as the opposite party has a right in such case to examine them, and to cross-examine upon their contents. Notes, *which should be invariably made, and never*

destroyed, should be read over before going into Court, rather than in the witness box.

When two or more constables are engaged in any case the notes should be made quite independently of each other, and without consultation with other witnesses.

Nuisances. C. C. s. 221.

See Brothel, Gaming-house, Betting-house, Disorderly house.

Oath.

A person about to be sworn, if a Protestant or Roman Catholic, takes the Bible or Testament in his right hand, and attentively listens to the terms of the oath he is about to take; he then shews his willingness to fulfil them by pressing the book to his lips.

Jews are sworn on the Hebrew Bible, according to the formula of their faith.

The person addressed is called on to swear that, "in the matter in question, I will speak the truth, the whole truth, and nothing but the truth. So help me, God."

A person who wilfully says upon oath that which is untrue commits perjury and is liable to severe punishment on indictment. (See affirmation.)

Obscene matter. C. C. 207, 209.

207. Every one is guilty of an indictable offence and liable to two years' imprisonment who knowingly without lawful justification or excuse—

(a) Manufactures, or sells, or exposes for sale, or to public view, or distributes or circulates, or causes to be distributed or circulated, any obscene book, or other printed, typewritten or other written matter, or any picture, photograph, model or other object tending to corrupt morals; or

(b) Publicly exhibits any disgusting object or any indecent show; or

(c) Offers to sell, advertises, publishes an advertisement of, or has for sale or disposal any medicine, drug or article intended or represented as a means of preventing conception or of causing abortion or miscarriage.

2. No one shall be convicted of any offence in this section mentioned if he proves that the public good was served by the acts alleged to have been done, and that there was no excess in the acts alleged beyond what the public good requires.

3. It shall be a question for the Court or judge whether the occasion of the manufacture, sale, exposing for sale, publishing or exhibition is such as might be for the public good, and whether there is evidence of excess beyond what the public good requires in the manner, extent or circumstances in, to or under which the manufacture, sale, exposing for sale, publishing or exhibition is made, so as to afford a justification or excuse therefor; but it shall be a question for the jury whether there is or is not such excess.

4. The motives of the manufacturer, seller, exposor, publisher or exhibitor shall in all cases be irrelevant.

209. Every one is guilty of an indictable offence and liable to two years' imprisonment who posts for transmission or delivery by or through the post—

(a) Any obscene or immoral book, pamphlet, newspaper, picture, print, engraving, lithograph, photograph or any publication, matter or thing of an indecent, immoral, or scurrilous character; or

(b) Any letter upon the outside or envelope of which, or any post card or post band or wrapper upon which there are words, devices, matters or things of the character aforesaid; or

(c) Any letter or circular concerning schemes devised or intended to deceive and defraud the public or for the purpose of obtaining money under false pretences.

Obtaining Money or Goods by False Pretences.

See False Pretences.

Open Air Preaching.

Is not an offence, unless the public thoroughfares are obstructed at the time, or some specific nuisance to the public or persons residing at the spot is thereby occasioned. If so, persons committing such offences are to be civilly requested to move away.

Peace Officer defined. C. C. s. 2 (26).

The expression "peace officer" includes a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer and justice of the peace, and also the warden, keeper or guard of a penitentiary and the gaoler or keeper of any prison, and any police officer, police constable, bailiff, constable or other person employed for the preservation and maintenance of the public peace, or for the service and execution of civil process.

Peace, Sureties for keeping the. C. C. ss. 1058-1059.

46. Every one who witnesses a breach of the peace is justified in interfering to prevent its continuance or renewal, and may detain any person committing or about to join in or renew such breach of the peace, in order to give him into the custody of a peace officer: Provided that the person interfering uses no more force than is reasonably necessary for preventing the continuance or renewal of such breach of the peace, or than is reasonably proportioned to the danger to be apprehended from the continuance or renewal of such breach of the peace.

47. Every peace officer who witnesses a breach of the peace, and every person lawfully assisting him, is justified in arresting any one whom he finds committing such breach of the peace, or whom he, on reasonable and probable grounds, believes to be about to join in or renew such breach of the peace.

Every peace officer is justified in receiving into custody any person given into his charge as having been a party to a breach of the peace by one who has, or whom such peace officer, upon reasonable and probable grounds, believes to have witnessed such breach of the peace.

Placards. See Obscene Matter.

Pound Breach.

Is the forcible breaking the pound, in which cattle have been put after being lawfully distrained for the purpose of rescuing them. Pound breach is considered a greater offence at common law than even a rescue of the goods distrained, and is no doubt an injury and insult to public justice. It seems to be equally indictable as such at common law, for which a form is laid down in Chitty. (Keele.)

Power of Attorney.

A power of attorney is a writing authorising another person to do any lawful act in the stead of another, and is either general or special.

Preservation of the Peace near Public Works. C. C.
146, 147.

POSSESSING WEAPONS NEAR.

146. Every one employed upon or about any public work, within any place in which the Act respecting the Preservation of Peace in the vicinity of Public Works is then in force, is liable, on summary

conviction, to a penalty not exceeding four dollars and not less than two dollars for every such weapon found in his possession who, upon or after the day named in the proclamation by which such Act is brought into force, keeps or has in his possession, or under his care or control, within any such place, any weapon.

147. Every one is liable, on summary conviction, to a penalty not exceeding one hundred dollars and not less than forty dollars who, for the purpose of defeating the said Act, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed within any place in which the said Act is at the time in force, any weapon belonging to or in custody of any person employed on or about any public work.

SALE, ETC., OF LIQUORS NEAR PUBLIC WORKS.

150. Upon and after the day named in any proclamation putting in force in any place an Act respecting the Preservation of Peace in the vicinity of Public Works, and during such period as such proclamation remains in force, no person shall, at any place within the limits specified in such proclamation, sell, barter, or directly or indirectly, for any matter, thing, profit or reward, exchange, supply or dispose of any intoxicating liquor, nor expose, keep or have in possession any intoxicating liquor intended to be dealt with in any such way.

The provisions of this section do not extend to any person selling intoxicating liquor by wholesale and not retailing the same, if such person is a licensed distiller or brewer.

151. Every one is liable, on summary conviction, for a first offence, to a penalty of forty dollars and costs, and in default of payment, to imprisonment for a term not exceeding three months, with or without hard labor,—and on every subsequent conviction to the said penalty and the said imprisonment in default of payment, and also to further imprisonment for a term not exceeding six months, with or without hard labor, who, by himself, his clerk, servant, agent or other person, violates any of the foregoing provisions.

Every clerk, servant, agent or other person who, being in the employment of, or on the premises of, another person, violates or assists in violating any of such provisions for the person in whose employment or on whose premises he is, is equally guilty with the principal offender and liable to the same punishment.

Prison.

The expression “prison” includes any penitentiary, common gaol, public or reformatory prison, lock-up, guard room or other place in which persons charged with the commission of offences are usually kept or detained in custody. C. C. sec. 2, ss. 30.

Prize Fighting. C. C. 2 (31).

2. (31) Defines as follows:—"Prize Fight" means an encounter, or fight with their fists or hands, between two persons who have met for such purpose by previous arrangement made by or for them.

104. The punishment for challenging to, or preparing for, a prize fight, or acting as trainer or second, is a fine of not less than \$100, nor more than \$1,000, or to imprisonment of not more than six months, with or without hard labour, or to both fine and imprisonment, in the discretion of the Court.

105. The punishment for engaging as a principal in a prize fight, on summary conviction, is from three to twelve months' imprisonment with or without hard labour.

106. Whoever is present at a prize fight, as an aid, second, surgeon, umpire, backer, assistant, or reporter, or advises, encourages, or promotes such fight, is guilty of an offence against this Act; and, on summary conviction thereof, is liable to a fine of not less than \$50, nor more than \$500, or to imprisonment of not more than twelve months, with or without hard labour, or to both.

107. Orders that the punishment for any inhabitant or resident of Canada, leaving Canada to engage in a prize fight, without the limits, is a fine of \$50, nor more than \$400, or to imprisonment of not more than six months, or to both fine and imprisonment, in the discretion of the Court.

627. Directs that it shall be the duty of any constable, among others, when he has any reason to believe that any person within his jurisdiction is about to engage as principal in any prize fight within Canada, he shall forthwith arrest such person and conduct him before some person having authority to try offences against this Act, who, if satisfied that the person so brought before him was at the time of his arrest about to engage as a principal in a prize fight, he shall require the accused to enter into a recognizance with, sufficient sureties, in a sum not less than \$1,000, nor more than \$5,000, conditioned that the accused will not engage in any such fight within one year after the date of such arrest, or to remain in gaol until he give such recognizance.

Public Officer.

The expression "public officer" includes any inland revenue or customs officer, officer of the army, navy, marine, militia, Royal North-West mounted police, or other officer engaged in enforcing the laws relating to the revenue, customs, trade or commerce of Canada. Crim. Code 2. (29.)

Public Place.

Includes any open place to which the public have or are permitted to have access, and any place of public resort. C. C. 197. (c).

Questioning.

A person can only be questioned respecting the commission of a crime, so long as there is no intention to arrest him.

From the moment it has been determined to arrest, no question must be asked respecting the offence without a strict caution.

Constables must be careful not to give offence in the questions they are obliged to put in making inquiries; the exercise of a little tact will prevent this.

A clue may often be found in what passes for a fact of no importance.

Railways, Mischief on. C. C. 517.

Every one is guilty of an indictable offence and liable to five years' imprisonment who, in manner likely to cause danger to valuable property, without endangering life or person—

(a) places any obstruction upon any railway, or takes up, removes or displaces, breaks or injures, any rail sleeper or other matter or thing belonging to any railway; or

(b) shoots or throws anything at an engine or other railway vehicle; or

(c) interferes without authority with the points or signals or other appliances upon any railway; or

(d) makes any false signal on or near any railway; or

(e) wilfully omits to do any act which it is his duty to do; or

(f) does any other unlawful act.

Every one who does any of the acts above mentioned with intent to cause such danger is liable to imprisonment for life.

Railway Act (Extracts). R. S. C. 1906, chap. 37.

SEC. 408. Walking on track prohibited unless the person is connected with the railway. Penalty not exceeding ten dollars. Summary conviction.

425. Destroying railway fences, bridges, etc., defacing notices, regulations or by-laws or extracts of the Railway Act, liable on summary conviction to penalty not exceeding \$50, or, in default of payment, to imprisonment for a term not exceeding two months.

Fraudulently attempting to travel without paying fare on a railway ("stealing ride") obstructing railway authorities, trespassing upon any of the stations, cars or buildings of a railway, liable, on summary conviction, to penalty not exceeding \$50, or, in default of payment, to imprisonment for a term not exceeding two months.

SEC. 413. Every conductor, locomotive engineer, train despatcher, telegraph operator, station agent, switchman, signalman, bridge tender, or any other person who is intoxicated, or under the influence of liquor, while in charge of or in any employment having to do with the movement of trains upon any

railway, is guilty of an offence, and shall be punished by fine, not exceeding \$400.00, or imprisonment, not exceeding five years, or both.

SEC. 414. Every person who sells, gives or barter any spirituous or intoxicating liquor to or with any servant or employee of any company, while on duty, is liable, on summary conviction, to a penalty not exceeding fifty dollars, or to imprisonment, with or without hard labour, for a period not exceeding one month, or both.

SEC. 415. Violation of by-laws of company by employees, copies of which have been delivered to them, or which have been posted up and open to their inspection, liable to be punished by fine and imprisonment, or both, fine not to exceed \$400, imprisonment not to exceed five years.

The company may in all cases under this section pay the amount of penalty and costs, and recover the same from the offenders, or deduct it from his salary or pay. 51 V. c. 29, s. 295.

SEC. 426. Damaging freight with intent to steal contents; or, drinking or wasting liquor, liable, on summary conviction, to penalty not exceeding \$20 over and above value of goods or liquor taken or destroyed, or to imprisonment with or without hard labour for a term not exceeding one month, or to both. 51 V. C. 29, s. 297.

Rape. C. C. 7, 298, 299, 300.

Rape is the act of a man having carnal knowledge of a woman who is not his wife, without her consent, or with consent which has been extorted by threats or fear of bodily harm, or obtained by personating the woman's husband, or by false and fraudulent representations as to the nature and quality of the act.

No one under the age of fourteen years can commit this offence.

Every one who commits rape is guilty of an indictable offence and liable to suffer death, or to imprisonment for life; and for an attempt at rape is liable to seven years.

SEC. 7 C. C. Carnal knowledge is complete upon penetration to any, even the slightest degree, and even without the emission of seed.

Reasonable and Probable Cause. C. C. 34.

As to what constitutes a reasonable cause in such cases, depends very much on the particular facts and circumstances in each instance, the general rule being that the grounds must be such that any reasonable person acting without passion or prejudice would fairly have suspected the party arrested of being the person who committed the offence, though the words of the statute, s. 34, seem to authorize the apprehension of the person offering, whether he be suspected or not. A bare surmise or suspicion is plainly insufficient. (Graves, p. 626.)

Refusing to Assist a Constable. See Peace Officer, and Neglecting to Aid. C. C. 31 and 167.

To suppress an affray or accomplish an arrest, a constable may call to his assistance any private person present, who will be bound to render aid under the penalty of severe punishment for refusal or neglect; (C. C. 167) but the constable must carry this in mind, that to warrant his interference there must be evidence appearance that a felony or other crime against the King's peace is on the point of being committed; and this caution also may be given as to threats, that mere rash words or abusive or violent language used to the constable or to any other person, unless calculated to deter the officer from doing his duty, or directly tending to a breach of the peace, would not of themselves form a sufficient ground for the arrest of the wrong-doer. (Patton, 16.)

And on page 26, the same writer says:—"I would reiterate, that whenever necessary, a constable may call upon any by-stander in the King's name to assist him in making an arrest, or securing an offender; and that private persons acting in aid of the officer are entitled to the same indemnity as the officer, for their acts in his aid."

Resisting or Obstructing Constable. See Aggravated Assault.

Riot and Unlawful Assemblies. C. C. 87, 88, 89, 90, 91, 92, 93, 96, 97.

88. A riot is an unlawful assembly which has begun to disturb the peace tumultuously.

An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when assembled as to cause persons in the neighbourhood of such assembly to fear, on reasonable grounds, that the persons so assembled will disturb the peace tumultuously, or will by such assembly needlessly and without any reasonable occasion provoke other persons to disturb the peace tumultuously.

Persons lawfully assembled may become an unlawful assembly if they conduct themselves with a common purpose in such a manner as would have made their assembling unlawful if they had assembled in that manner for that purpose.

An assembly of three or more persons for the purpose of protecting the house of any one in their number against persons threatening to break and enter such house in order to commit an indictable offence therein is not unlawful.

89. Every member of an unlawful assembly is guilty of an indictable offence and liable to one year's imprisonment.

90. Every rioter is guilty of an indictable offence and liable to two years' imprisonment with hard labour.

Section 91 of the Criminal Code reads as follows :

It is the duty of every sheriff, deputy sheriff, mayor, or other head officer and justice of the peace, of any county, city or town, who has noticed that there are within his jurisdiction persons to the number of twelve or more unlawfully, riotously, tumultuously assembled together to the disturbance of the public peace, to resort to the place where such unlawful, riotous and tumultuous assembly is, and among the riotous, or as near to them as he can safely come, with a loud voice to command or cause to be commanded silence, and after that openly and with a loud voice to make or cause to be made a proclamation in these words, or to the like effect :—

“ Our Sovereign Lord the King charges and commands all persons being assembled to immediately disperse and peaceably to depart to their habitations or to their lawful business, upon the pain of being guilty of an offence on conviction of which they may be sentenced to imprisonment for life. God Save the King.”

Constables in troubled times will do well to transcribe this formula on a card, and have it in their pocketbooks ready for use by a magistrate if the necessity arises.

Before the riot becomes acute, it will be desirable to ascertain who are its leaders, and take note of their names and actions for subsequent proceedings.

Neglect to Suppress Riot.

94. Every one is guilty of an indictable offence and liable to two years' imprisonment who, being a sheriff, deputy sheriff, mayor, justice of the peace, or peace officer, having noticed that there is a riot within his jurisdiction, without reasonable excuse, omits his duty in suppressing such riot.

95. Every one is guilty of an indictable offence and liable to one year's imprisonment who, having reasonable notice that he is required to assist in suppressing any riot, without reasonable excuse omits so to do.

Robbery.

Robbery is theft accompanied with violence or threats of violence, to any person or property, used to extort the property stolen, or to prevent or overcome resistance to its being stolen. For this offence everyone is guilty of an indictable offence and is liable to imprisonment for life and to be whipped. (Code, sec. 445, 446.)

The difference between robbery and stealing from the person is that the former is open and violent and the later is generally done clandestinely.

Stopping the mail with intent to rob or search it is indictable and punishable for life or not less than five years.

Search for Vagrant. C. C. 643.

In executing a search warrant, the constable must be careful strictly to pursue its directions. The warrant (Form 2) commonly specifies the place to be searched, the goods to be seized, and the person to be taken. If the outer door of the house to be searched be shut, and upon demand not opened, the constable may break it open, and so may inner doors, boxes, etc., after the keys have been demanded and refused.

Selling what is unfit for food.

Crim. Code, sec. 224.

Every one is guilty of an indictable offence and liable to one year's imprisonment who knowingly and wilfully exposes for sale, or has in his possession with intent to sell, for human food, articles which he knows to be unfit for human food. For a second offence the offender is liable to two years' imprisonment.

Statutory Declarations.

Any judge, notary public, justice of the peace, police or stipendiary magistrate, recorder, mayor, commissioner for taking affidavits to be used either in the Provincial or Dominion courts, or any other functionary authorized by law to administer an oath in any matter, may receive the solemn declaration of

any person voluntarily making the same before him, in the following form, in attestation of the execution of any writing, deed or instrument, or, of the truth of any account rendered in writing:—

“I, A.B., do solemnly declare that (state the fact or facts declared to), and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of *The Canada Evidence Act*.

Declared before me at.....this
.....day of.....A. D. 19...

.....
Can. Ev. Act, Sec. 36, R. S. C. 1906, chap. 145.

Subpoenas.

A subpoena is a writ commanding attendance in court, on a certain day therein named, under a penalty. In criminal cases, the subpoenas are usually either to give evidence or to produce documents. See under “Summons” for form of “Affidavit of service.”

Suicide, attempt to commit. C. C. 269, 270.

270. Every one who attempts to commit suicide is guilty of an indictable offence and liable to two years' imprisonment. See C. C. 1035, 1058.

269. Every one is guilty of an indictable offence and liable to imprisonment for life who counsels or procures any person to commit suicide, actually committed in consequence of such counselling or procurement, or who aids or abets any person in the commission of suicide.

Persons who attempt to commit suicide are to be arrested and charged before the nearest justice. If at the time of the arrest any serious injury has been inflicted, medical aid is to be obtained immediately.

Suspected Persons.

Constables are expected to know all suspected persons in their neighbourhood, but are not to make charges or imputations against the character of any one, unless they have sufficient knowledge of the persons concerned to justify them in so doing.

See C. C. 33, 34 and 37.

Swearing, etc. C. C. 238 (f).

Profane swearing and cursing is an offence punishable by fine, or imprisonment, or both; summary conviction.

Constables making use of obscene, blasphemous, insulting language, or swearing, are to be reported. Constables must govern themselves so as not to commit offences, the suppression of which is imposed upon them by law.

Telegraph and Telephone Lines. (C. C., sec. 521.)

Every one is guilty of an indictable offence and liable to two years' imprisonment who wilfully—(a) destroys, removes or damages anything which forms part of, or is used or employed in or about

any electric or magnetic telegraph, electric light, telephone or fire alarm, or in the working thereof, or for the transmission of electricity for other lawful purposes; or (b) prevents or obstructs the sending, conveyance or delivery of any communication by such telegraph, telephone or fire alarm, or the transmission of electricity for any such electric light or for any such purpose as aforesaid.

Every one wilfully attempting to commit any such offence is liable, on summary conviction, to a penalty not exceeding \$50, or to three months' imprisonment with hard labour.

Theatre. C. C. 197 (a), 208.

208. Every person who, being the lessee, agent or person in charge or manager of a theatre, presents or gives or allows to be presented or given therein, immoral, indecent or obscene play, opera, concert, acrobatic, or vaudeville performance, or other entertainment or representation, is guilty of an indictable offence and liable, if convicted upon indictment, to one year's imprisonment with or without hard labour, or to a fine of five hundred dollars, or to both, and, on summary conviction, to six months' imprisonment, or to a fine of fifty dollars, or to both.

Every person who takes part or appears as an actor, performer, or assistant in any capacity, in any such immoral, indecent or obscene play, opera, concert, performance, or other entertainment or repre-

sensation, is guilty of an offence and liable, on summary conviction, to three months' imprisonment, or to a fine not exceeding twenty dollars, or to both.

Every person who so takes part or appears in any indecent costume is guilty of an offence and liable, on summary conviction, to six months' imprisonment, or to a fine of fifty dollars, or to both.

In this section the word "Theatre" includes any place open to the public, gratuitously or otherwise, where dramatic, musical, acrobatic or other entertainments or representations are presented or given.

Theft, Defined. C. C. 347, 348.

Theft or stealing is the act of fraudulently and without colour of right taking, or fraudulently and without colour of right converting to the use of any person, anything capable of being stolen, with intent.

To deprive the owner, or any person having any special property or interest therein, permanently of such thing or of such property or interest; or

To pledge the same or deposit it as security; or

To part with it under a condition as to its return which the person parting with it may be unable to perform; or

To deal with it in such a manner that it cannot be restored in the condition which it was at the time of such taking and conversion.

The taking or conversion may be fraudulent, although effected without secrecy or attempt at concealment.

It is immaterial whether the thing converted was taken for the purpose of conversion, or whether it was, at the time of the conversion, in the lawful possession of the person converting.

Theft is committed when the offender moves the thing or causes it to move or to be moved, or begins to cause it to become movable, with intent to steal it.

Provided that no factor or agent shall be guilty of theft by pledging or giving a lien on any goods or document of title to goods intrusted to him for the purpose of sale or otherwise, for any sum of money not greater than the amount due to him from his principal at the time of pledging or giving a lien on the same, together with the amount of any bill of exchange accepted by him for or on account of his principal.

Provided that if any servant, contrary to the orders of his master, takes from his possession any food for the purpose of giving the same or having the same given to any horse or other animal belonging to or in possession of his master, he shall not be guilty of theft by reason thereof.

Theft of Cattle. C. C. 369.

Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals any cattle.

The expression "cattle" includes any horse, mule, ass, swine, sheep, or goat, as well as any neat (horned) cattle or animal of the bovine species, and by whatever technical or familiar name known, and shall apply to one animal as well as many. C. C. 2. (5).

Crim. Code, sec. 989, states:—"In any criminal prosecution, proceeding or trial the presence upon any cattle of a brand or mark, which is duly recorded or registered under the provisions of any act, ordinance or law, shall be *prima facie* evidence that such cattle are the property of the registered owner of such brand or mark, and where a person is charged with theft of cattle or with an offence under paragraph (a) or paragraph (b) of section 392, respecting cattle, possession by such person or by others in his employ or on his behalf, of such cattle, bearing such a mark or brand of which the person charged is not the registered owner, shall throw upon the accused the burden of proving that such cattle came lawfully into his possession or into the possession of such others in his employ or on his behalf, unless it appears that such possession by others in his employ or on his behalf was without his knowledge and without his authority, sanction or approval.

C. C. 392. Every one is guilty of an indictable offence and liable to three years' imprisonment who—

(a) without the consent of the owner thereof, fraudulently takes, holds, keeps in his possession, con-

ceals, receives, appropriates, purchases or sells, or fraudulently causes or procures, or assists in taking possession, concealing, appropriating, purchasing or selling of any cattle which are found astray; or (b) fraudulently refuses to deliver up any such cattle to the proper owner thereof, or to the person in charge thereof on behalf of such owner or authorized by such owner to receive such cattle; or (c) without the consent of the owner, fraudulently, wholly or partially obliterates, or alters or defaces, or causes or procures to be obliterated, altered or defaced, any brand or mark on any cattle, or makes or causes or procures to be made, any false or counterfeit brand or mark on any cattle."

Thieves.

Constables are to take a note of all known thieves and suspected persons in their neighbourhoods, and the number, dates and particulars of previous convictions of such thieves.

Threats. See Intimidation.

Timber, appropriating, found adrift. C. C. 394.

394. Every one is guilty of an indictable offence and liable to three years' imprisonment who

(a) fraudulently without the consent of the owner thereof,

(i) takes, holds, keeps in his possession, collects, conceals, receives, appropriates, purchases, sells or causes or procures or assists to be taken possession of,

collected, concealed, received, appropriated, purchased or sold, any timber mast, spar, saw-log or other description of lumber which is found adrift in, or cast ashore on the bank or beach of any river, stream or lake;

(ii) wholly or partially defaces or adds, or causes or procures to be defaced or added, any mark or number on any such timber, mast, spar, saw-log or other description of lumber, or makes or causes or procures to be made any false or counterfeit mark on any such timber, mast, spar, saw-log or other description of lumber; or

(b) refuses to deliver up to the proper owner thereof, or to the person in charge thereof, on behalf of such owner, or authorized by such owner to receive the same, any such timber, mast, spar, saw-log or other description of lumber.

See C. C. 990 as to evidence of ownership.

Trading Stamps. C. C. 335 (u), 505 to 558.

505. Every one is guilty of an indictable offence and liable to one year's imprisonment and to a fine not exceeding \$500, who by himself, his employee or agent, directly or indirectly issues, sells or otherwise disposes of or offers to issue, give, sell or dispose of trading stamps to a merchant or dealer in goods for use in his business.

506. Every one is guilty of an indictable offence and liable to 6 months' imprisonment and to a fine

not exceeding \$200, who, being a merchant or dealer in goods by himself, his employee, or agent, directly or indirectly gives, or in any way disposes of, or offers to give, or in any way dispose of, trading stamps to a purchaser from him of any such goods.

507. Any executive officer of a corporation or company guilty of an offence under sec. 506 and 505, who in any way aids or abets in, or counsels, or procures the commission of such offence, is guilty of an indictable offence and liable to the punishment stated in said sections respectively.

508. Every one is guilty of an offence and liable, on summary conviction, to a fine not exceeding \$20, who, being a purchaser of goods from a merchant or dealer in goods, directly or indirectly receives or takes trading stamps from the vendor or his employee or agent.

Treason, High. C. C. 74.

Treason is—

The act of killing His Majesty, or doing him any bodily harm tending to death or destruction, maim or wounding, and the act of imprisoning or restraining him; or

The forming and manifesting by an overt act an intention to kill His Majesty, or to do him any bodily harm tending to death or destruction, maim or wounding, or to imprison or to restrain him; or

The act of killing the eldest son and heir apparent of His Majesty, or the Queen consort of any King of the United Kingdom of Great Britain and Ireland; or

The forming and manifesting, by an overt act, an intention to kill the eldest son and heir apparent of His Majesty, or the Queen consort of any King of the United Kingdom of Great Britain and Ireland; or

Conspiring with any person to kill His Majesty, or to do him bodily harm tending to death or destruction, maim or wounding, or conspiring with any person to imprison or restrain him; or

Levying war against His Majesty either—

(i) With intent to depose His Majesty from the style, honour and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland or of any other of His Majesty's dominions or countries;

(ii) In order, by force or constraint, to compel His Majesty to change his measures or counsels, or in order to intimidate or overawe both Houses or either House of Parliament of the United Kingdom or of Canada; or

Conspiring to levy war against His Majesty with any such intent or for any such purpose as aforesaid; or

Instigating any foreigner with force to invade the said United Kingdom or Canada or any other of the dominions of His Majesty; or

Assisting any public enemy at war with His Majesty in such war by any means whatsoever; or

Violating, whether with her consent or not, a Queen consort, or the wife of the eldest son and heir apparent, for the time being, of the King or Queen regent.

Every one who commits treason is guilty of an indictable offence and liable to suffer death.

North West Game Act. R. S. C. 1906.

Chap 151.

SEC. 4. Act applies to North West Territories.

SEC. 20. All members of the R. N. W. M. Police shall be ex-officio game guardians under this Act.

SEC. 6. Buffalo and bison shall not be hunted, taken, killed, shot at, wounded, injured or molested in any way, at any time of the year, until the 1st January, 1912; provided that the Minister of the Interior may give a special license to take or capture one or more buffalo for breeding purposes.

SEC. 7. Close seasons for—

(a) Musk oxen, between 20th March, 15th October.

(b) Elk or wapiti, moose, cariboo, deer, mountain sheep, mountain goats, between 1st April and 15th July, and between 1st October and 1st December.

(c) Minks, fishers and martens, 15th March and 1st November.

(d) Otters and beavers, 15th May and 1st October.

(e) Muskrats, 15th May and 1st October.

(f) Grouse, partridges, pheasants and prairie chickens, 1st January and 1st September.

(g) Wild swans, wild ducks and wild geese, 15th January and 1st September.

SEC. 10. The beasts and birds above mentioned may be lawfully hunted, taken or killed, and eggs may be lawfully taken:—

(a) By Indians who are inhabitants of the country to which the Act applies, and by other inhabitants of the said country. But this exception does not apply to buffalo, bison or musk oxen during the close season for these beasts.

(b) By explorers, surveyors or travellers who are engaged in any exploration, survey or other examination of the country, and are in actual need of the beasts, birds or eggs for food.

(c) By any person who has a permit to do so granted under this Act.

SEC. 11. Batteries, swivelguns, etc., forbidden.

SEC. 12. Poisoning is prohibited.

SEC. 13. Dogs not to be used for hunting.

SEC. 14. Indians not to be employed to hunt.

Penalties:—

SEC. 26, 27. Violation with regard to musk oxen, buffalo or bison, penalty not more than \$200, not less than \$50.

SEC. 25. Violation sections 7, 11, 12, 13, 14, penalty not more than \$100, not less than \$20.

SEC. 28. Violation of any other provision, penalty of not more than \$50, not less than \$5.

And he is liable in every case to pay costs of conviction.

SEC. 29. Penalty may be mitigated if convicting authority is satisfied that offence was committed in ignorance of the law, and because of the poverty of the offender.

SEC. 30. Penalty and costs shall be levied by distress and sale of the goods and chattels of the person convicted, and in default, shall be imprisoned for not less than five days, nor more than three months; or

(b) Person convicted shall be imprisoned for not less than five days nor more than three months.

SEC. 32. Offences against this Act may be tried summarily by any of the following authorities:—

(a) Any stipendiary magistrate of the N. W. Territories.

(b) Any justice of the peace in and for the N. W. Territories.

(c) Any commissioned officer of the R. N. W. M. Police.

(d) Any game guardian appointed under this Act.

Unprotected Abandoned Mines. Crim. Code, s. 287
s.s. "b".

Every one is guilty of an offence and liable, on summary conviction, to a fine or imprisonment with or without hard labor (or both) who—

(b) Being the owner, manager or superintendent of any abandoned or unused mine or quarry or property upon or in which any excavation has been or is hereafter made, of a sufficient area and depth to endanger human life, leaves the same unguarded and uninclosed by a guard or fence of sufficient height and strength to prevent any person from accidentally riding, driving, walking or falling thereinto; or

(c) Omits within five days after conviction of any such offence to make the inclosure aforesaid or to construct around or over such exposed opening or excavation a guard or fence of such height and strength.

2. Every one whose duty it is to guard such hole, opening, aperture or place is guilty of manslaughter if any person loses his life by accidentally falling therein while the same is unguarded.

NOTE.—See sub-sec. 2, sec. 1052, Crim. Code, as follows:—

2. Every one who is summarily convicted of any offence for which no punishment is specially provided shall be liable to a penalty not exceeding \$50, or to

imprisonment, with or without hard labour, for a term not exceeding six months, or to both. R. S. C. c. 184, s. 24.

Vagrants. C. C. 238, 239.

IDLE AND DISORDERLY PERSONS.

238. Every one is a loose, idle or disorderly person or vagrant who,

(a) not having any visible means of subsistence, is found wandering abroad or lodging in any barn or outhouse, or in any deserted or unoccupied building, or in any cart or waggon, or in any railway carriage or freight car, or in any railway building, and not giving a good account of himself, or who, not having any visible means of maintaining himself, lives without employment;

(b) being able to work, and thereby or by other means to maintain himself and family, wilfully refuses or neglects to do so;

(c) openly exposes or exhibits in any street, road, public place or highway, any indecent exhibition.

(d) without a certificate signed, within six months, by a priest, clergyman or minister of the Gospel, or two justices of the peace, residing in the municipality where the alms are being asked, that he or she is a deserving object of charity, wanders about and begs, or goes about from door to door, or places himself or herself in any street, highway, passage or public place to beg or receive alms;

(e) loiters on any street, road, highway or public place, and obstructs passengers by standing across the footpaths, or by using insulting language, or in any other way;

(f) causes a disturbance in any street, road, highway or public place by screaming, swearing or singing, or by being drunk, or by impeding or incommoding peaceable passengers;

(g) by discharging firearms, or by riotous or disorderly conduct in any street or highway, wantonly or maliciously disturbs the peace and quiet of the inmates of any dwelling house near such street or highway;

(h) tears down or defaces signs, breaks windows, or doors or door plates, or the walls of houses, roads or gardens, or destroys fences;

(i) being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and does not give a satisfactory account of herself;

(j) is a keeper or inmate of a disorderly house, bawdy house or house of ill-fame, or house for the resort of prostitutes;

(k) is in the habit of frequenting such houses and does not give a satisfactory account of himself or herself; or

(l) having no peaceable profession or calling to maintain himself by, for the most part supports him-

self by gaming or crime, or by the avails of prostitution.

239. Every loose, idle or disorderly person or vagrant is liable, on summary conviction, to a fine not exceeding fifty dollars, or to imprisonment, with or without hard labour, for any term not exceeding six months, or to both, provided that no aged or infirm person shall be convicted for any reason within paragraph (a) of the last preceding section, as a loose, idle, disorderly person or vagrant, or vagrant in the county of which he has for the two years immediately preceding been a resident.

“Public place,” includes any open place to which the public have or are permitted to have access, and any place of public resort. s. 197, ss. (c) C. C.

SEC. 2, ss. (10) C. C. “County” includes any division of any province of Canada for purposes relative to the administration of justice in the matter to which the context relates.

R. S. C. 1906, Chap. 1, s. 34. “Province” includes the N. W. Territories, Keewatin, and the Yukon Territory.

Violence, Threats and Molestation. C. C. 501.

Every one is guilty of an offence punishable at the option of the accused, on indictment or on summary conviction before two justices of the peace, and liable to a fine not exceeding one hundred dollars, or to three months' imprisonment, with or without hard

labour, who, wrongfully and without lawful authority, with a view to compel any other person to abstain from doing anything which he has a lawful right to do, or to do anything from which he has a lawful right to abstain,

(a) uses violence to such other person, or his wife or children, or injures his property; or

(b) intimidates such other person, or his wife or children, by threats of using violence to him, her or any of them, or of injuring his property; or

(c) persistently follows such other person about from place to place; or

(d) hides any tools, clothes or other property owned or used by such other person, or deprives him or hinders him in the use thereof; or

(e) with one or more other persons, follows such other person, in a disorderly manner, in or through any street or road; or

(f) besets or watches the house or other place where such other person resides or works, or carries on business or happens to be.

Attending at or near or approaching to such house or other place as aforesaid, in order merely to obtain or communicate information, is not deemed a watching or besetting within the meaning of this section.

502. Intimidation of any person to prevent him from working at any trade.

503. Intimidation of any person to prevent him dealing in wheat, etc. Unlawfully preventing seamen from working.

504. Intimidation of any person to prevent him bidding for public lands.

Weapons, Offensive. C. C. (24), 115.

The term offensive weapon includes any gun or other firearm, or air-gun or sword blade, bayonet, dagger knife, or other instrument intended for cutting or stabbing, or any metal knuckles or any instrument or thing intended to be used as a weapon, and all ammunition intended to be used as a weapon. Possessing or carrying any offensive weapon for any purpose, dangerous to the public peace, is an indictable offence, punishable by five years' imprisonment.

Witchcraft, Pretending to Practice. C. C. 443.

Every one is guilty of an indictable offence and liable to one year's imprisonment who pretends to exercise or use any kind of witchcraft, sorcery, enchantment or conjuration, or undertakes to tell fortunes, or pretends from his skill or knowledge in any occult or crafty science, to discover where or in what manner any goods or chattels supposed to have been stolen or lost may be found.

Writs, Misconduct of Officers entrusted with execution of. C. C. s. 166.

Every one is guilty of an indictable offence and liable to a fine and imprisonment, in the discretion of the court, who, being a sheriff, deputy sheriff, coroner, elisor, bailiff, constable or other officer entrusted with the execution of any writ, warrant or process, wilfully misconducts himself in the execution of the same, or wilfully, and without the consent of the person in whose favour the writ, warrant or process was issued, makes any false return thereto.

APPENDICES

SCHEDULE "A."

CONSTABLES' FEES.

C. C. 770.

1. Arrest of each individual upon a warrant	\$1 50
2. Serving summons	0 25
3. Mileage to serve summons or warrant, per mile (one way) necessarily travelled	0 10
4. Same mileage when service cannot be effected, but only upon proof of due diligence.	
5. Mileage taking prisoner to gaol, exclusive of disbursements necessarily expended in his conveyance.....	0 10
6. Attending justices on trial for each day necessarily employed in one or more cases, when engaged less than 4 hours	1 00
7. Attending justices on trial for each day necessarily employed in one or more cases, when engaged more than 4 hours	1 50
8. Mileage travelled to attend trial (when public conveyance can be taken only reasonable disbursements to be allowed) each mile	0 10
9. Serving warrant of distress and returning same	1 00
10. Advertising under warrant of distress	1 00
11. Travelling to make distress or to search for goods to make distress, when no goods are found, per mile (one way)	10
12. Appraisements, whether by one appraiser or more, 2 cents in the dollar on the value of the goods.	
13. Commission on sale and delivery of goods, 5 cents in the dollar on the net product of the goods.	

SCHEDULE "B."**INDICTABLE OFFENCES & OFFENCES UNDER SUMMARY JURISDICTION.****PART 2.***(S. C. means Supreme Court.)**Treason and Other Offences against the King's Authority and Person.*

- 74. Treason, S.C., death.
- 75. Conspiracy, treasonable, S.C., death.
- 76. Accessories to treason, S.C., 2 years.
- 77. Levying war by subjects of a state at peace with His Majesty—subjects assisting S.C., death.
- 78. Treasonable offences, S.C., imprisonment for life.
- 79. Conspiracy to intimidate a legislature, S.C., 14 years.
- 80. Assaults on the King, S.C., 7 years and whipping.
- 81. Inciting to mutiny, S.C., imprisonment for life.
- 82. Enticing soldiers or sailors to desert, S.C., fine and imprisonment; Sum. 2 J.P., \$80 to \$200 and costs, in default, not exceeding 6 months.
- 83. Resisting execution of warrant for arrest of deserters, Sum. 2 J.P. fine \$80.
- 84. Enticing militiamen or members of the R. N. W. M. police to desert, and accessories thereto, Sum. 1 J.P., 6 months imprisonment with or without hard labour.

Information illegally obtained or communicated.

- 85. Unlawfully obtaining and communicating official information, S.C., 1 year or fine not exceeding \$100, or both.
- 86. Communicating information acquired by holding office made or attempted to be made to foreign state, S.C., imprisonment for life; in any other case, S.C., 1 year or fine not exceeding \$100 or both.

Unlawful Assemblies, Riots, Breaches of the Peace.

- 89. Unlawful assembly, S.C., 1 year.
- 90. Riot, S.C., 2 years.
- 92. Riot Act, oppose or hinder from being read, S.C., imprisonment for life.

- 94. Neglect of peace officer to suppress riot, S.C., 2 years.
- 95. Neglect to aid peace officer in suppressing riot, S.C., 1 year.
- 96. Riotous destruction of buildings, S.C., imprisonment for life.
- 97. Riotous damage to buildings, S.C., 7 years.

Unlawful drilling.

- 98. Unlawful drilling, S.C., 2 years.
- 99. Being unlawfully drilled, S.C., 2 years.

Affrays and duels.

- 100. Affray, S.C., 1 year with hard labour.
- 101. Challenge to fight a duel, S.C., 3 years.

Forcible entry and detainer.

- 103. Forcible entry and detainer, S.C., 1 year.

Prize Fights.

- 104. Challenging to fight a prize fight, Sum. 1 J.P., \$100 to \$1,000 or not exceeding imprisonment for six months, or both, with or without hard labour.
- 105. Principal in prize fight, Sum. 1 J.P., imprisonment 3 to 12 months, with or without hard labour.
- 106. Attending or promoting prize fight, Sum. 1 J.P., \$50 to \$500, or 12 months, with or without hard labour or both.
- 107. Leaving Canada to engage in a prize fight, Sum. 1 J.P., \$50 to \$400, or imprisonment not exceeding 6 months with or without hard labour, or both.
- 108. Where the fight is not a prize fight, Sum. 1 J.P., \$50.

Inciting Indians.

- 109. Inciting Indians to riotous acts, S.C., 2 years.
- 110. Inciting Indians to commit indictable offences, S.C., 5 years.

Explosive Substances

- 111. Causing dangerous explosions, S.C., imprisonment for life.
- 113. Doing anything or possessing explosive substances with intent to cause dangerous explosions, S.C., 14 years.

114. Unlawfully making or possessing explosive substances, S.C., 7 years.

Offensive weapons.

115. Possession of arms for purposes dangerous to public peace, S.C., 5 years.
116. Two or more persons openly carrying weapons so as to cause alarm, Sum. 2 J.P., \$10 to \$40, or imprisonment for 30 days.
117. Smugglers carrying offensive weapons, S.C., 10 years.
118. Carrying pistol or air gun without justification, Sum. 1 J.P., \$5 to \$25, or 1 month.
119. Selling pistol or air gun to minor, Sum. 1 J.P., not exceeding \$50; without keeping record of sale, Sum. 1 J.P., not exceeding \$25.
120. Having weapons on person when arrested, Sum. 2 J.P., \$20 to \$50, or 3 months, with or without hard labour.
121. Having weapons with intent to injure another, 2 J.P., \$50 to \$200, or not exceeding 6 months hard labour.
122. Pointing a firearm at any person, 2 J.P., \$10 to \$100, or 30 days with or without hard labour.
123. Carrying offensive weapon—(bowie knife, dagger, etc.), on person, 2 J.P., \$10 to 50, or 30 days with or without hard labour.
124. Carrying sheath knife (not required by his lawful calling), 2 J.P., \$10 to \$40, or 30 days with or without hard labour.
126. Refusing to deliver weapon to J.P. at or on way to public meeting, S.C., or 1 J.P., \$8.
127. Coming armed within one mile of public meeting, S.C., \$100 or 3 mos.. or both.
128. Lying in wait for persons returning from public meeting, S.C., \$200 or 6 months, or both.

Seditious Offences.

129. Administers oath binding person to commit crime punishable by death or imprisonment, or for more than 5 years, S.C., 14 years.
130. Administers, etc., other unlawful oaths, S.C., 7 years.
134. Seditious offences, S.C. 2 years.
135. Libels on foreign sovereigns, S.C., 1 year.
136. Spreading false news, S.C., 1 year.

Piracy.

- 137. Piracy by the law of nations, S.C., imprisonment for life, death.
- 138. Piratical acts, S.C., imprisonment for life.
- 139. Piracy with violence, S.C., death.
- 140. Not fighting pirates, S.C., 6 months and forfeits wages.

Conveying liquor on board His Majesty's ships.

- 141. Intoxicating liquors on board His Majesty's ships, Sum. 2 J.P., \$50 or not exceeding 1 month, with or without hard labour.

Part 3.*Preservation of peace in vicinity of public works.**Weapons and liquor.*

- 146-7 Possessing weapons near public works, Sum. 1 J.P., \$2 to \$4 per day when in possession; receiving or concealing any weapons near public works, Sum. 1 J.P., \$40 to \$100.
- 151-2 Sale of liquors near public work without permission of Lt. Governor, Sum. 1 J.P., \$40 and costs, or 3 months with without hard labour, or second offence not exceeding 6 months additional, with or without hard labour.

Part 4.*Offences against Administration of Law and Justice.**Corruption and Disobedience.*

- 156. Judicial corruption, S.C., 14 years.
- 157. Corruption by justice of the peace, peace officer or public officer, S.C., 14 years.
- 158. Frauds upon government, S.C., \$100 to \$1,000 and to imprisonment from 1 month to 1 year, and in default of payment, 6 months additional.
- 160. Breach of trust by public officer, S.C., 5 years.
- 161. Corrupt practices in municipal affairs, S.C., \$100 to \$1,000 and to imprisonment from 1 month to 2 years, and in default of payment 6 months additional.

- 162. Selling office appointment, etc., or purchasing same, S.C., 5 years.
- 164. Disobedience to a statute, S.C., 1 year.
- 165. Disobedience to orders of Court, S.C., 1 year.
- 166. Misconduct of officers intrusted with execution of writs, etc., S.C., fine and 5 years' imprisonment.

Peace officers.

- 167. Neglect to aid peace officers in arresting indictable, S.C., 6 mos.
- 168-9 Obstructing public officer in execution of his duty, S.C., 10 years.
- Obstructing peace officer in execution of his duty, S.C., 2 years.
- Obstructing peace officer in execution of his duty, Sum. 2 J.P., 6 months hard labour or \$100.
- Obstructing persons in lawful execution of process against lands or goods, or in making lawful distress, S.C., 2 years; Sum. 2 J.P., 6 months hard labour or \$100.

Misleading Justice.

- 174. Punishment of perjury, S.C., 14 years or life.
- 175. False oath, S.C., 7 years.
- 176. False statements, S.C., 2 years.
- 177. Fabricating evidence, S.C., 7 years.
- 178. Conspiring to bring false accusations, S.C., 10 to 14 years.
- 179. Administering oaths without authority, S.C., \$50 or 3 months.
- 180. Corrupting juries and witnesses, S.C., 2 years.
- 181. Compounding penal actions, S.C., compound for fine not exceeding penalty.
- 182. Corruptly taking a reward for helping to recover stolen property without using diligence to bring offender to trial, S.C., 7 years.
- 183. Unlawfully advertising a reward for return of stolen property, Court of competent jurisdiction, \$250 and costs.
- 184. Signing false declaration respecting execution of judgment of death, S.C., 2 years.

Escapes and Rescues.

- 185. Being at large while under sentence of imprisonment, S.C., 2 years.
- 186. Assisting escape of prisoners of war, S.C., 5 years.
- 187. Breaking prison, S.C., 7 years.
- 188. Attempting to break prison, S.C., 2 years.
- 189. Escape from custody after conviction or from prison, S.C., 2 years.
- 190. Escape from lawful custody, S.C., 2 years.
- 191. Assisting escape in certain cases, S.C., 7 years.
- 192. Assisting escape in other cases, S.C., 5 years.
- 194. Aiding escape from prison, S.C., 2 years.
- 191-2 Officer aiding and permitting escape, S.C., 5 to 7 years.
- 195. Unlawfully procuring discharge of prisoner, S.C., 2 years.

Part 5.*Offences against Religion, Morals and Public convenience.**Offences against Religion.*

- 198. Blasphemous libels, S.C., 1 year.
- 199. Obstructing officiating clergyman, S.C., 2 years.
- 200. Violence to officiating clergyman, S.C., 2 years.
- 201. Disturbing public worship, Sum. 1 J.P., \$50 and costs or 1 month.

Offences against Morality.

- 202. Unnatural offence, S.C., imprisonment for life.
- 203. Attempt to commit sodomy, S.C., 10 years.
- 204. Incest, S.C., 14 years and whipping.
- 205. Indecent acts, Sum. 2 J.P., \$50 or 6 months with or without hard labour.
- 206. Acts of gross indecency, S.C., 5 years and whipping.
- 207. Publishing obscene matter, S.C., 2 years.
- 208. Putting on immoral theatrical show, S.C., 1 year and \$500 or both, J.P., 6 months or \$50, or both.
- Taking part in immoral theatrical show, 1 J.P., 3 months or \$20, or both.
- Appearing in indecent costume, 1 J.P., 6 months or \$50, or both.

- 209. Posting immoral books, etc., S.C., 2 years.
- 211. Seduction of girls under sixteen, S.C., 2 years.
- 212. Seduction under promise of marriage, S.C., 2 years.
- 213. Seduction of a ward, servant, etc., S.C., 2 years.
- 214. Seduction of females who are passengers on vessels, S.C., \$400 or 1 year.
- 216. Unlawfully defiling women, S.C., 2 years.
- 215. Parent or guardian procuring defilement of a girl, S.C., 14 years.
- 217. Householders permitting defilement of girl on their premises, S.C., 10 years if girl is under 14; 2 years if girl is between 14 and 16.
- 218. Conspiracy to defile, S.C., 2 years.
- 219. Carnally knowing idiots, S.C., 4 years.
- 220. Prostitution of Indian women, S.C., \$10 to \$100 or 6 months imprisonment.

Nuisance.

- 222. Common nuisances which are criminal, S.C., 1 year.
- 224. Selling things unfit for food, S.C., 1 year, 2nd offence 2 years.
- 228. Disorderly houses, S.C., 1 year.
- 229. Playing or looking on in gaming house, Sum. 2 J.P., \$20 to \$100 or 2 months.
- 230. Obstructing peace officer entering a gaming house, 2 J.P., not exceeding \$100 or 6 months with or without hard labour.
- 231. Gaming in stocks and merchandise, S.C., 5 years and fine of \$500.
- 233. Habitually frequenting places where gaming in stocks is carried on, S.C., 1 year.
- 234. Gambling in public conveyances, S.C., 1 year.
 Conductor, master, or superior officer on railroad car or steamboat who neglects his duty to have offenders punished, Sum. 1 J.P., \$20 to \$100.
 Company or person failing to keep copy of s. 234 posted up in conspicuous place, Sum. 1 J.P., \$20 to \$100.
- 235. Betting and pool selling, S.C., 1 year and fine not exceeding \$1,000.
- 236. Lotteries, S.C., 2 years and fine not exceeding \$2,000.

Buying or receiving lottery ticket or other device, Sum. 1 J.P., \$20.

237. Misconduct in respect to human remain, S.C., 5 years.

Vagrancy.

238-239. Idle and disorderly persons, Sum. 1 J.P., \$50 or not exceeding 6 months with or without hard labour or both. See proviso Sec. 239, re aged persons.

Part 6.

Offences against person and reputation.

Duties Tending to the Preservation of Life.

244. Neglecting duty to provide necessities, S.C., 3 years.

245. Abandoning children under two years of age, S.C., 3 years.

249. Causing bodily harm to apprentices or servants, S.C., 3 years.

Murder and Manslaughter.

263. Punishment of murder, S.C., death.

264. Attempts to commit murder, S.C., for life.

265. Threats to murder, S.C., 10 years.

266. Conspiracy to murder, S.C., 14 years.

267. Accessories after the fact to murder, S.C., for life.

268. Punishment of manslaughter, S.C., for life.

Suicide.

269. Aiding and abetting suicide, S.C., for life.

270. Attempt to commit suicide, S.C., 2 years.

Neglect in childbirth and concealing dead body.

271. Neglecting to obtain assistance in childbirth, S.C., for life.
7 years.

272. Concealing dead body, S.C., 2 years.

Bodily Injuries, and Acts and Omissions Causing Danger to Person.

273. Wounding with intent, S.C., for life.

274. Wounding, S.C., 3 years.

- 275. Shooting at His Majesty's vessels—wounding customs or inland revenue officers, S.C., 14 years.
- 276. Disabling or administering drugs with intent to commit an indictable offence, S.C., for life and whipping.
- 277. Administering poison so as to endanger life, S.C., 14 years.
- 278. Administering poison with intent to injure, S.C., 3 years.
- 279. Causing bodily injuries by explosives, S.C., for life.
- 280. Attempting to cause bodily injuries by explosives, S.C., for life. 14 years.
- 281. Setting spring-guns and man-traps, S.C., 5 years.
- 282. Intentionally endangering the safety of persons on railways, S.C., life.
- 283. Negligently endangering the safety of persons on railways, S.C., 2 years.
- 284. Negligently causing bodily injury to any person, S.C., 2 years.
- 285. Injuring persons by furious driving, S.C., 2 years.
- 286. Preventing the saving of the life of any person shipwrecked, S.C., 7 years.
- 287. Leaving holes in the ice and excavations unguarded, Sum. 1 J.P., fine and imprisonment, or both.
- 288. Sending unseaworthy ships to sea, S.C., 5 years.

Assaults.

- 291. Common assaults, S.C., 1 year and not exceeding \$100; Sum. 1 J.P., \$20 and costs or 2 months with or without hard labour.
- 292. Indecent assaults on females, S.C., 2 years and whipping.
- 293. Indecent assaults on males, S.C., 10 years and whipping.
- 295. Assaults causing actual bodily harm, S.C., 3 years.
- 296. Aggravated assault, S.C., 2 years.
- 297. Kidnapping, S.C., 7 years.

Rape.

- 299. Punishment for rape, S.C., death or imprisonment for life.
- 300. Attempt to commit rape, S.C., 7 years.
- 301. Defiling children under fourteen, S.C., imprisonment for life and whipping.
- 302. Attempt to commit such offence, S.C., 2 years and whipping.

Abortion.

- 303. Procuring abortion, S.C., imprisonment for life.
- 304. Woman procuring her own miscarriage, S.C., 7 years.
- 305. Supplying means to procure abortion, S.C., 2 years.
- 306. Killing unborn child, S.C., imprisonment for life.

Offences affecting Conjugal Rights.

- 308. Punishment of bigamy, S.C., 7 years; 2nd offence, 14 years.
- 309. Feigned marriages, S.C., 7 years.
- 310. Punishment of polygamy, S.C., 5 years and fine of \$500.

Unlawful solemnization of marriage.

- 311. Solemnization of marriage without lawful authority, S.C., 2 years or fine, or both.
- 312. Solemnization of marriage contrary to law, S.C., 1 year or fine.

Abduction.

- 313. Abduction of a woman, S.C., 14 years.
- 314. Abduction of an heiress, S.C., 14 years.
- 315. Abduction of a girl under sixteen, S.C., 5 years.
- 316. Stealing children under fourteen, S.C. 7 years.

Defamatory Libel.

- 332. Extortion by defamatory libel, S.C., 2 years or \$600, or both.
- 333. Punishment of defamatory libel known to be false, S.C., 2 years or \$400, or both.
- 334. Punishment of defamatory libel, S.C., 1 year or \$200, or both.

Part 7.*Offences against rights of property.**Punishment of theft.*

- 358. Agents and attorneys, S.C., 14 years.
- 359. Clerks and servants, S.C., 14 years.
- 360. Tenants and lodgers, S.C., 2 years.
- 361. Testamentary instruments, S.C., imprisonment for life.
- 362. Document of title to lands, S.C., 3 years.

- 363. Judicial or official documents, S.C., 3 years.
- 364. Stealing post letter bags, S.C., imprisonment for life, or not less than 3 years.
- 365. Stealing post letters, packets and keys, S.C., from 3 to 7 years.
- 366. Stealing mailable matter other than post letters, S.C., 5 years.
- 367. Election documents, S.C., fine or 7 years, or both.
- 368. Railway tickets, S.C., 2 years.
- 369. Cattle, S.C., 14 years.
- 370. Dogs, birds, beasts and other animals, Sum. 1 J.P., \$50 over and above value of animal, or 2 months or both with hard labour; 2nd offence, 3 months with or without hard labour.
- 371. Oysters, S.C., 7 years.
Using dredge within limits of oyster-bed, S.C., 3 months.
- 372. Things fixed to buildings or to land, S.C., 7 years.
- 373. Trees in pleasure grounds, etc., of five dollars' value, S.C., 2 years.
Trees elsewhere of twenty-five dollars' value, S.C., 2 years.
- 374. Trees of the value of twenty-five cents, Sum. 1 J.P., \$25 over and above value of trees; 2nd offence, 3 months' hard labour.
- 377. Fences—stiles—gates, Sum., \$20 over and above value; 2nd, offence, 3 months hard labour.
- 375. Roots, plants, etc., growing in gardens, etc., Sum. 1 J.P., \$20 over and above value, or 1 month with or without hard labour; 2nd offence indictable, 3 years.
- 376. Roots, plants, etc., growing elsewhere than in gardens, etc., Sum. 1 J.P., \$5 over and above value or 1 month hard labour; 2nd offence, 3 months hard labour.
- 378. Ores of metals, etc., S.C., 2 years.
- 379. Stealing from the person, S.C., 14 years.
- 380. Stealing in dwelling houses, S.C., 14 years.
- 381. Stealing by picklocks, etc., S.C., 14 years.
- 382. Stealing from ships, wharves, etc., S.C., 14 years.
- 383. Stealing wreck, S.C., 7 years.
- 384. Stealing on railways, S.C., 14 years.
- 385. Stealing things deposited in Indian graves, Sum. 1 J.P., 1st offence, \$100 or 3 months; 2nd offence, \$100 or six months.

- 386. Stealing things not otherwise provided for, S.C., 7 years;
2nd offence, 10 years.
- 387. Additional punishment when value of property exceeds two
hundred dollars, S.C., 2 years in addition to punishment.
- 388. Stealing in manufactories, etc., S.C., 5 years.

Offences resembling theft.

- 389. Fraudulently disposing of goods entrusted for manufacture,
S.C., 2 years.
- 390. Criminal breach of trust, S.C., 7 years.
- 391. Public servants refusing to deliver up chattels, moneys or
books, etc., lawfully demanded of them, S.C., 14 years.
- 393. Pigeons, Sum. 1 J.P., \$10 over and above value of birds.
- 394. Timber found adrift, S.C., 3 years.
- 395. Failing to satisfy justice that possession of tree, etc., is
lawful, Sum. 1 J.P., \$10 over and above value.
- 396. Destroying, etc., documents, S.C., 3 years.
- 397. Concealing, S.C., 2 years.
- 398. Bringing stolen property into Canada, S.C., 7 years.

Receiving Stolen Goods.

- 399. Receiving property dishonestly obtained, S.C., 14 years.
- 400. Receiving stolen post letter or post letter bag, S.C., 5 years.
- 401. Receiving property obtained by offence punishable on sum-
mary conviction, Sum. 1 J.P., as for stealing.

False Pretences.

- 405. Punishment of false pretence, S.C., 3 years.
- 406. Obtaining execution of valuable security by false pretence,
S.C., 3 years.
- 407. Falsely pretending to enclose money in a letter, S.C., 3
years.
- 408. Personation, S.C., 14 years.
- 409. Personation at examinations, S.C., Sum. 1 J.P., 1 year or
\$100.
- 410. Personation of owners of stock, S.C., 14 years.
- 411. Acknowledging instrument in false name, S.C., 7 years.

Fraud and Fraudulent dealing with property.

- 412. Obtaining passage by false tickets, S.C., 6 months.
- 413. False accounting by official, S.C., 7 years.
- 414. False statement by official, S.C., 5 years.
- 415. False accounting by clerk, S.C., 7 years.
- 416. False statement by public officer, S.C., 5 years and not exceeding \$500.
- 417. Assigning property with intent to defraud creditors or not keeping books, S.C., \$800, and 1 year.
- 418. Destroying or falsifying books with intent to defraud creditors, S.C., 10 years
- 419. Concealing deeds or encumbrances, or falsifying pedigree, S.C., fine or 2 years, or both.
- 420. Frauds in respect to the registration of titles to land, S.C., 3 years.
- 421. Fraudulent sales of property, S.C., 1 year and not exceeding \$2,000.
- 422. Fraudulent hypothecation of real property, S.C., 1 year and not exceeding \$100.
- 423. Fraudulent seizures of land, S.C., 1 year.
- 424. Unlawful dealings with gold or silver, S.C., 2 years.
- 425. Warehousemen, etc., giving false reports—knowingly using the same, S.C., 3 years.
- 426. Owners of merchandise disposing thereof contrary to agreements with consignees who have made advances thereon, S.C., 3 years.
- 427. Making false statements or receipts for property that can be used under "The Bank Act," fraudulently dealing with property to which such receipts refers, S.C., 3 years.
- 429. Selling vessel or wreck not having title thereto, S.C., 7 years.
- 430. Other offences respecting wrecks, Sum. 2 J.P., \$400 or 6 years with or without hard labor.
- 431. Offences respecting old marine stores, S.C., 5 years; Sum. 1 J.P., 1st offence, \$5; 2nd offence, \$7.
- 433. Unlawfully applying marks to public stores, S.C., 2 years.
- 434. Taking marks from public stores, S.C., 2 years.
- 435. Unlawful possession, sale, etc., of public stores, S.C., 1 year; Sum. 2 J.P., \$100 or 6 months hard labour.

- 436. Not satisfying justices that possession of public stores is lawful, Sum. 2 J.P., \$25, or 3 months with or without hard labour.
- 437. Searching for stores near H. M. vessels, Sum. 2 J.P., \$25 or 3 months.
- 438. Receiving regimental necessities, etc., from soldiers or deserters, S.C., 5 years; Sum. 2 J.P., \$20 to \$40 and costs or 6 months imprisonment with or without hard labour.
- 439. Receiving, etc., necessities from mariners or deserters, S.C., 5 years; Sum. 2 J.P., \$20 to \$120 and costs or 6 months.
- 440-335. Receiving, etc., a seaman's property, S.C., 5 years, Sum. 1 J.P., \$100; 2nd offence, \$100 or 6 months with or without hard labour.
- 441. Not satisfying justice that possession of seaman's property is lawful, Sum. 1 J. P., \$25.
- 442. Cheating at play, S.C., 3 years.
- 443. Pretending to practice witchcraft, S.C., 1 year.
- 444. Conspiracy to defraud, S.C., 7 years.

Robbery and Extortion.

- 446. Punishment of aggravated robbery, S.C., imprisonment for life and whipping.
- 447. Punishment of robbery, S.C., 14 years.
- 448. Assault with intent to rob, S.C., 3 years.
- 449. Stopping the mail, S.C., imprisonment for life or 5 years.
- 450. Compelling execution of documents by force, S.C., imprisonment for life.
- 451. Sending letter demanding property with menaces, S.C., 14 years.
- 452. Demanding with intent to steal, S.C., 2 years.
- 453. Extortion by certain threats. S.C., 14 years.
- 454. Extortion by other threats, S.C., 7 years.

Burglary and Housebreaking.

- 455. Breaking place of worship and committing offence, S.C., 14 years.
- 456. Breaking place of worship with intent to commit offence, S.C., 7 years.
- 457. Burglary, S.C., imprisonment for life.

- 458. Housebreaking and committing an indictable offence, S.C., 14 years.
- 459. Housebreaking with intent to commit an indictable offence, S.C., 7 years.
- 460. Breaking shop and committing an indictable offence, S.C., 14 years.
- 461. Breaking shop with intent to commit an indictable offence, S.C., 7 years.
- 462. Being found in a dwelling house by night, S.C., 7 years.
- 463. Being armed with intent to break a dwelling house, S.C., 7 years.
- 464. Being disguised or in possession of housebreaking instruments, S.C., 5 years.
- 465. Punishment after previous conviction, S.C., 14 years.

Forgery.

- 467. Uttering forged documents, S.C., same as forgery.
- 468-9-70. Punishment of forgery, S.C., imprisonment for life. 14 years, 7 years.

Offences resembling forgery.

- 472. Counterfeiting seals, S.C., imprisonment for life.
- 473. Counterfeiting seals of courts, registry offices, etc S.C., 14 years.
- 474. Unlawfully printing proclamation, etc., S.C., 7 years.
- 475. Sending telegram in false names, S.C., as for forgery.
- 476. Sending false telegram, S.C., 2 years.
- 477. Drawing document without authority, S.C., as for forgery.
- 478. Using probate obtained by forgery or perjury, S.C., 14 years.
- 479. Counterfeiting stamps, S.C., 14 years.
- 480. Falsifying registers, S.C., 14 years.
- 481. Falsifying extracts from registers, S.C., 10 years.
- 482. Uttering false certificates, S.C., 7 years.
- 483. Forging certificates, S.C., 2 years.
- 484. Making false entries in books relating to public funds, S.C., 14 years.
- 485. Clerks issuing false dividend warrants, S.C., 7 years.

Forgery of Trade Marks—Fraudulent Marking of Merchandise.

- 491. Forgery of trade marks, etc., S.C., 2 years with or without hard labour or fine, or both; Sum. 1 J.P., 4 month im-

prisonment with or without hard labour, or fine not exceeding \$100; 2nd offence, 6 months imprisonment with or without hard labour, or fine not exceeding \$250.

492. Falsely representing that the goods are manufactured for His Majesty, Sum. 1 J.P., fine not exceeding \$100.
493. Unlawful importation of goods liable to forfeiture under this part, Sum. 1 J.P., \$200 to \$500.

Offences connected with Trade and Breaches of Contract.

498. Combinations in restraint of trade, S.C., \$200 to \$4,000 or 2 years.
Corporations in restraint of trade, S.C., \$1,000 to \$10,000.
499. Criminal breaches of contract, S.C., \$100 or 3 months; Sum. 1 J.P., \$100 or 3 months.
500. Posting up copies of provisions respecting criminal breaches of contract, Sum. 1 J.P., \$20 for every day.
Defacing same, Sum. 1 J.P., \$10.
501. Intimidation, S.C., Sum. 2 J.P., \$100 or 3 months with or without hard labour.
502. Intimidation of any person to prevent him from working at any trade, S.C., 2 years.
503. Intimidation of any person to prevent him dealing in wheat, etc. Unlawfully preventing seaman from working, S.C., Sum. 2 J.P., not exceeding \$100 or 3 months with or without hard labour.
504. Of any person to prevent him bidding for public lands, S.C., \$400 or 2 years, or both.

Trading Stamps.

505. Disposing of trading stamps to a merchant, S.C., 1 year and \$500.
506. Merchant disposing to customer, S.C., 6 months and \$200.
508. Purchaser receiving or taking same, Sum. J.P., \$20.

Part 8.

Forbidden Acts in respect of certain property.

Mischief.

510. Mischief, S.C., life, 14 years, 7 years, 5 years, 2 years.
511. Arson, S.C., imprisonment for life.

- 512. Attempt to commit arson, S.C., 14 years.
- 513. Setting fire to crops, S.C., 14 years.
- 514. Attempt to set fire to crops, S.C., 7 years.
- 515. Recklessly setting fire to forest, etc., S.C., 2 years; Sum. 2 J.P., \$50 or 6 months with or without hard labour.
- 516. Threats to burn, etc., S.C., 10 years.
- 517. Mischief on railways, S.C., 5 years.
- 518. Obstructing railways, S.C., 2 years.
- 519. Injuries to packages in the custody of railways, or who unlawfully drinks or spills or allows to run waste any liquors, Sum. 1 J.P., \$20 over and above the value or 1 month with or without hard labour.
- 520. Mischief to mines, S.C., 7 years.
- 521. Injuries to electric telegraph, etc., S.C., 2 years.
Attempting to commit, Sum. 1 J.P., \$50 or 3 months with or without hard labour.
- 522. Wrecking, S.C., imprisonment for life.
- 523. Attempting to wreck, S.C., 14 years.
- 524. Preventing the saving of wrecked vessels or wreck, S.C., 7 years.
Wilfully prevents or endeavours to prevent, S.C., 2 years; Sum. 2 J.P., \$400 or 6 months, with or without hard labour.
- 525. Injuries to rafts of timber and works used for the transmission thereof, S.C., 2 years.
- 526. Interfering with marine signals, S.C., 7 years; Sum. 1 J.P., \$10 or 1 month.
- 528. Injuries to poll books, etc., S.C., 7 years.
- 529. Injuries to buildings by tenants, S.C., 5 years.
- 530. Injuries to fences, etc., Sum. 1 J.P., \$20 over and above damage; 2nd offence, 3 months with or without hard labour.
- 531. Injuries to landmarks indicating municipal divisions, S.C., 7 years.
- 532. Injuries to other landmarks, S.C., 5 years.
Injuries to harbours, Sum. 1 J.P., not exceeding \$50.
- 533. Injuries to trees, etc., wheresoever growing, amounting to 25 cents in the least, Sum. 1 J.P., \$25 over and above damage or 2 months; 2nd offence, \$50 or 4 months hard labour.

- 534. Injuries to vegetable productions growing in gardens, etc., Sum. 1 J.P., \$20 or 3 months imprisonment with or without hard labour; 2nd offence, indictable 2 years.
- 535. Injuries to cultivated roots and plants growing elsewhere, Sum. 1 J.P., \$5 over and above injury done, or 1 month with or without hard labour; 2nd offence, 3 months hard labour.
- 536. Attempting to injure or poison cattle, S.C., 2 years.
- 537. Injuries to other animals, Sum. 1 J.P., \$100 over and above damage, 3 months imprisonment; 2nd offence, indictable.
- 538. Threats to injure cattle, S.C., 2 years.
- 539-54. Injuries not otherwise provided for, Sum. 1 J.P., \$20, and also not exceeding \$20 compensation with costs, or imprisonment not exceeding 2 months with or without hard labour.

Cruelty to Animals.

- 542. Cruelty to animals, Sum. 2 J.P., \$50 or 3 months with or without hard labour, or both.
- 543. Keeping cock-pit, Sum. 2 J.P., \$50 or 3 months with or without hard labour, or both.
- The conveyance of cattle, Sum. 1 J.P., \$100.
- Search of premises—Penalty for refusing admission to peace officer, Sum. 1 J.P., \$5 to \$20 or 30 days.

Part 9.

Offences relating to Bank Notes, Coin and counterfeit money.

Bank Notes.

- 550. Possessing forged bank notes, S.C., 14 years.
- 551. Printing circulars, etc., in likeness of notes, Sum. 2 J.P., \$100 or 3 months, or both.

Coin.

- 552. Counterfeiting coins, etc., S.C., imprisonment for life.
- 553. Dealing in and importing counterfeit coin, S.C., imprisonment for life.

- 554. Manufacture of copper coin and importation of uncurrent copper coin, Sum. 1 J.P., \$20 for every lb. troy. thereof.
- 555. Exportation of counterfeit coin, S.C., 2 years.
- 556. Making instruments for coining, S.C., life.
- 557. Bringing instruments for coining from mints into Canada, S.C., life.
- 558. Clipping current gold or silver coin, S.C., 14 years.
- 559. Defacing current coins, S.C., 1 year.
- 560. Possessing clippings of current coin, S.C., 7 years.
- 561. Possessing counterfeit coin, S.C., 3 years.
- 562. Offences respecting copper coin, S.C., 3 years.
- 563. Offences respecting foreign coins, S.C., 3 years.
- 564. Uttering counterfeit gold or silver coins, S.C., 14 years.
- 565. Uttering light coins, medals, counterfeit copper coins, etc., S.C., 3 years.
- 566. Uttering defaced coin, Sum. 2 J.P., not exceeding \$10.
- 567. Uttering uncurrent copper coins, Sum. 1 J.P., fine twice the value of coin and in default 8 days.
- 568. Punishment after previous conviction, S.C., imprisonment for life, 14 years, 7 years.

Advertising Counterfeit Money.

- 569. Advertising counterfeit money and other offences connected therewith, S.C., 5 years.

Part 10.

Attempts—Conspiracies—Accessories.

- 570. Attempting to commit certain indictable offences, S.C., 7 years.
- 571. Attempting to commit other indictable offences, S.C., one-half longest term for offences.
- 572. Attempting to commit statutory offences, S.C., 1 year.
- 573. Conspiring to commit an indictable offence, S.C., 7 years.
- 574. Accessories after the fact to certain indictable offences, S.C., 7 years.
- 575. Accessories after the fact to other indictable offences, S.C., one-half longest term for offence.

Sec. 1058. Every Court of criminal jurisdiction and every magistrate under sec. 771, before whom any person is convicted of an offence and is not sentenced to death, shall have power in addition to any sentence imposed upon such person, to require him forthwith to enter into his own recognizances, or to give security to keep the peace and be of good behaviour for any term not exceeding two years, and that such person in default shall be imprisoned for not more than one year after the expiry of his imprisonment under his sentence or until such recognizances are sooner entered into or such security sooner given. Form 49 C. C. schedule, may be used.

Sec. 1035. Any person convicted by any magistrate under part 16 or by any Court of an indictable offence punishable with imprisonment for five years or less may be fined in addition to or in lieu of any punishment otherwise authorized, in which case the sentence may direct that in default of payment of his fine the person so convicted shall be imprisoned until such fine is paid, or for a period not exceeding five years, to commence at the end of the term of imprisonment awarded by the sentence or forthwith as the case may require.

Sec. 748. Whenever any person is charged before a justice with an offence triable by summary conviction, part 15 C. C., which in the opinion of such justice is directly against the peace, and the justice after hearing the case is satisfied of the guilt of the accused, and that the offence was committed under circumstances which render it probable that the person convicted will be again guilty of the same or some other offence against the peace unless he is bound over to good behaviour, such justice may in addition to or in lieu of, any other sentence which may be imposed upon accused, require him forthwith to enter into his own recognizances, or to give security to keep the peace and be of good behaviour for any term not exceeding twelve months.

APPENDIX 1.

BRANDS.

(Chap. 22, N. W. T. 1900, as amended.)

In force in Saskatchewan and Alberta and the N. W. Territories.

“Brand” means any letter, sign, character or numeral or combination of same, recorded as allotted to any owner.

“Vent” means:—

(1.) Any vent brand allotted, recorded prior to 1st March, 1898.

(2.) In the case of any three character brand, either the second marking thereof placed upon the same side of any stock as the original brand, or, a marking of a letter or numeral of such brand placed in a horizontal position below the brand.

(3.) All other cases the second marking of the brand placed upon the same side of any stock as original brand.

“Character” means any sign, letter or numeral.

The presence of a vent on stock denotes the fact of the proprietary rights having passed from the owner to another person.

Every brand for cattle allotted for the hip or thigh for the ribs and for the shoulder or top of arm, shall consist of three characters.

Two brands for horses and two brands for cattle only shall be allotted to each owner, who has the exclusive right to same.

No brand shall be allotted to an Indian living on a reserve.

Section 989, Criminal Code. In any criminal prosecution, proceeding or trial, the presence upon any cattle of a brand or mark which is recorded or registered under any act, ordinance or law, shall be *prima facie* evidence that such cattle are the property of the registered owner of such brand or mark.

Possession of such cattle, when a person is charged with theft of cattle, or under section 392, is *prima facie* evidence of theft.

APPENDIX 2.

DOMINION LANDS SURVEY SYSTEM.

(R. S. C. 1906, chap. 55.)

Dominion Lands (Manitoba, Saskatchewan, Alberta, N. W. Territories, Yukon Territory), are laid off in quadrilateral townships.

Each township contains 36 sections, each one mile square.

Townships are numbered in regular order, commencing with one, Northerly, from the International boundary line between Canada and the United States, the 49th parallel of latitude.

Townships lie in ranges, and in Saskatchewan and Alberta are numbered commencing with one, Westward, from the 2nd, 3rd, 4th, and so on meridians.

Each section of a township contains 640 acres, (one mile square), and is divided into quarter sections of 160 acres each, styled the North-West, North-East, South-West, or South-East quarter sections.

Sections are numbered (alternately right to left and left to right), commencing with one in S. E. corner and ending with 36 in N. E. corner.

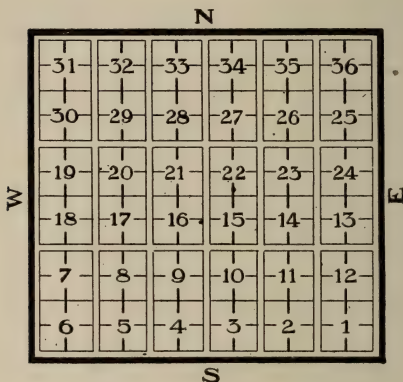
Sections 11 and 29 in every township are reserved for school purposes.

Sections 8 and 26 in every fifth township, that is, in townships 5, 10, 15, 20, 25 and so on (from the International boundary), and sections 8 and three-quarters of section 26 in all other townships are reserved for the Hudson's Bay Company.

A road allowance, 66 feet wide, is provided for between each section running North and South, and between every alternate section East and West.

THIS IS A PLAN OF

Tp. Rg. W. MER.



APPENDIX 3.**CRIME REPORTS.**

Reports of crime are to be kept distinct from all other reports, and will be known as "Crime Reports."

To each Crime Report file of any importance will be assigned a name, as for example:—"The Jones Murder," "The Hawkins Horse-stealing," "The Decker Cattle Killing," "The Ontario Bank Robbery," &c.

Crime Reports will be sent to the Officer Commanding in all cases under the Criminal Code, as follows:—

Table II., Offences against Public Order.

" IV.,	"	"	Administration of law and justice.
" V.,	"	"	Religion, Morals and Public Convenience..
" VI.,	"	"	Person and reputation.
" VII.,	"	"	Rights of property.

Except Common Assault, Sec. 295, part VI. C. C., and Vagrancy, Sec. 238, part V. C. C. (Revised Statutes Canada, 1906, Chap. 146.)

Crime Reports will be sent to the Officer Commanding for all offences under the following Dominion Statutes:—

Customs, Chap. 48, R. S. C., 1906.

Indians, Chap. 81, R. S. C., 1906.

Fisheries, Chap. 45, R. S. C., 1906.

Animals Contagious Disease, Chap. 75, R. S. C., 1906.

Dominion Lands, Chap. 55, R. S. C., 1906.

Railway (except stealing rides) Chap. 37, R. S. C., 1906.

Crime Reports will be sent to the Officer Commanding for all offences under the following local statutes or ordinances.

Prairie and Forest Fires.

Liquor.

Marking and Inspection of Stock.

The Officer, N. C. O. or Constable in charge of any sub-district or post will send to the headquarters of his division, without delay, a crime report of any offence committed in his jurisdiction, which crime report will be forwarded to the Officer Commanding (in duplicate if typewritten) to be followed by further reports until the case is completed. In case of murder or a serious offence, the senior member of the detachment will, where practicable, telegraph direct to the Commissioner, as well as to his Commanding Officer. Each case is to be dealt with separately, and a full report made of action taken. When the case is ended the various reports should show a complete history of the case.

Whenever a Crime Report is being forwarded on a case that has already been reported upon, the dates of the previous Crime Reports will be entered in the margin in red ink opposite the commencement of the body of the report. Should the report be the first from the detachment, however, although not the first report on the case, and the dates of the previous Crime Reports are not obtainable, the name of the detachment from which the case originated will be shown.

All matters relating to Crime are to be entered in the offence book and not in the diary. The patrol reports and the weekly and monthly reports are to contain no details as to crime, but are to be confined wholly to the interior economy, patrol and other matters relating to the work of the Division.

A criminal return will be attached to the monthly report (Form 125), giving a list of all offences that have occurred in the district. In any case where a case has been previously reported upon before this return was sent in, the letters, "C. R." will be placed in the remarks column, in red ink, before such case. When an offence has been reported in a previous return, and further action has taken place, note in column of remarks the return in which it is to be found.

Crime Reports should be filed separately at district headquarters and each file should give a complete history of the Crime, the last report on a case to end with the words, "Case Concluded."

In any case where the suspected or accused person is at large a description should be sent in with report. If warrant has been issued, it should be stated.

Crime Reports should be concise. Facts should be distinguished from speculation. The authority for any statement should be quoted. Hearsay should be avoided. General assertions are not to be made unless supported by reasons.

A statement giving the description of all horses reported lost in the district is to be attached to the weekly diary. Statement should show action and if recovered or not.

The Officer Commanding requires to have early information of all cases of crime in order that he may keep the Government informed. Should he first see the report in the press, an explanation will be required.

Members of the Force should remember that their duties do not cease when they have reported a crime. They must actively follow up each case until the perpetrators have been brought to justice, no matter whether it is of minor importance or not. It is only by persistent effort and activity on the part of every member that the Force can successfully maintain peace and good order.

Most thorough and careful enquiry must be made into all cases of sudden accidental deaths, and the decision of a coroner should not be too readily accepted. Statements from all persons in any way acquainted with the facts should be taken, and embodied in a Crime Report which is to be promptly reported.

A separate report is to be rendered at the end of each month of trials and convictions for infractions of the law relating to the furnishing of intoxicants to Indians.

APPENDIX 4.

QUESTIONS AND ANSWERS.

What Act of the Parliament of Canada governs the R. N. W. M. P.?

Chap. 91 of the R. S. Canada, 1906.

What sections of this statute state the powers and duties of the Force?

Sections 18, 19, 20.

Where does the force exercise jurisdiction?

In the Provinces of Saskatchewan, Alberta, the North-West Territories and the Yukon Territory. (Sec. 3.)

What are the duties of the force, subject to the orders of the commissioner?

To perform duties in relation to:—

1. Preservation of the peace.
2. Prevention of crime.
3. Offences against laws of Saskatchewan, Alberta, N. W. Territories and Yukon Territory.
4. Offences against criminal and other laws of Canada.
5. Apprehensions of criminals and offenders.
6. Others who may be lawfully taken into custody.
7. Attend upon Judges, Stipendiary Magistrates and J. P.'s when specially required.
8. Execution of all warrants.
9. Escorting and conveyance of convicts and other prisoners.
10. In the N. W. Territories, the laws relating to the prohibition of intoxicants. See sec. 19, R. N. W. M. P. Act,

How do the statutes distinguish between serious crimes and those of a minor character?

By what courts and in what manner are they disposed of?

Has a Justice of the Peace authority to convict and punish a person for an indictable offence?

What sections of the Criminal Code refer to the powers of constables respecting arrests?

What is a preliminary inquiry?

Describe briefly procedure before a J. P. holding same from time accused is brought before him.

1. Serious crimes are designated "Indictable offences."

2. Others are designated "Offences."

"Offences," or summary convictions cases are those in which one or more J. P.'s, as the particular statute requires, have authority to convict and punish the offender. (Code 706.)

No. He can only hold a preliminary inquiry with a view to commitment for trial to a higher court.

Sections 646 to 652.

An inquiry held before a J. P. to ascertain whether there is a proper case to be sent for indictment and trial by a higher court.

(1.) Charge must be stated and explained to accused, who should not be asked to plead thereto (that is, he should not be asked whether he is "guilty" or "not guilty," for the reason that he is not being tried.)

(2.) Evidence taken for the prosecution, Criminal Code Form 19 to be used, one caption and ending will suffice for the depositions of any number of witnesses in the same case, taken on the same occasion.

(3.) If there is an adjournment new caption and new ending will be used for witnesses then examined.

(4.) When the evidence for prosecution is completed the fact will be noted in the proceedings, "Prosecution closed."

(5.) Accused will then be addressed by the Justice as laid down in section 684 Crim. Code, Form 20.

(6.) What accused says in reply is to be taken down in writing on Form 20, C. C.

(7.) Accused will be asked if he wishes to call witness, if so, defence evidence will be taken, including that of the accused himself if he so desires.

After all the evidence has been produced, what disposition can the Justice make of accused?

1. By dismissal.
2. By bailing him for trial.
3. By committal of accused for trial.
4. By binding the prosecutor to prosecute an indictment if he so desires.

NOTES:—

Accused must appear personally and be present during examination of all witnesses.

Witnesses must be sworn or affirmed before giving evidence, except in the case of a child.

Evidence may be taken in shorthand, affidavit of stenographer will be annexed.

All persons except prosecutor and the accused and their counsel may be excluded from the place of hearing.

At request of either side, Justice must exclude witnesses on both sides.

No. Tariff in Crim. Code, sec. 770, only applies to summary conviction cases.

Nos. 678 to 704.

Are witnesses allowed fees in preliminary inquiries?

What sections of the Criminal Code refer to preliminary inquiries?

Do members of the force enforce Municipal by-laws?

In the Yukon Territory only.

DEFINITIONS.

What is meant by:—
“Municipality”?

Corporations of any city, town, village, county, or other territorial or local division of any province of Canada. C. C. 2 (21.)

“Intoxicating liquor”?

Any alcoholic, spirituous or other intoxicating liquor, or mixed liquor. C. C. 2 (17.)

“Night” or “Night time”?

Interval between 9 p.m. and 6 a.m. C. C. 2 (23.)

“Day” or “Day time”?

Interval between 6 a.m. and 9 p.m. C. C. 2 (23.)

“Prison”?

Any penitentiary, common gaol, lock-up, guard room, or other place in which persons charged with offences are kept or detained in custody. C. C. 2 (30.)

“Peace officer”?

Any J. P., warden, keeper, or guard of a penitentiary, gaoler or keeper of any prison, constable or other person employed in the preservation of the peace. C. C. 2 (26.)

“Public place”?

Any open place to which the public have or are permitted to have access, and any place of public resort. C. C. 197 (c.)

“Cattle”?

Any horse, mule, ass, swine, sheep, goat, as well as any neat (*horned*) cattle, or animal of the bovine species. C. C. 2 (5.)

“Robbery”?

Theft accompanied with violence or threats of violence. C. C. 445.

“Burglary”?

Breaking and entering a dwelling house *by night* with intent to commit an indictable offence.

“Housebreaking”?

Breaking and entering a dwelling house *by day* and committing an indictable offence.

“Break”?

Means to break any part, internal or external, of a building, or to open

“ Dwelling house ”?

by any means whatever, any door, window shutter, cellar flap, or other thing intended to cover openings to a building, or give passage from one part of it to another. C. C. 335 (c.)

A permanent building the whole or any part of which is kept by the owner or occupier for his residence. C. C. 335 (c.)

“ Common bawdy house ”?

A house, room, set of rooms, or place of any kind kept for purposes of prostitution, or occupied or resorted to by one or more persons for such purposes. C. C. 225.

“ Offensive weapon ”?

Any gun or fire-arm, sword, bayonet, spear, dirk, dagger, knife, metal knuckles, or other dangerous weapon, and any instrument or thing intended to be used as a weapon. C. C. 2 (24.)

ARREST.

What constitutes an arrest?

1. Persons should if possible be touched by the constable who should say: “*I arrest you,*” or “*You are my prisoner.*”

2. If a constable comes into a room, and tell the prisoner he arrests him, and locks the door, it would be an arrest.

3. If in any other way the person submit himself by word or action to be in custody, it would be an arrest.

4. Bare words will not make an arrest without touching or laying hold of the person, or otherwise confining him.

5. When arresting upon a warrant, a constable must, on demand, show the warrant on which he arrests or distrains.

What is meant by arrest?

The apprehension or restraining of the person in order to be forthcoming to answer an alleged or suspected crime.

ARRESTS WITHOUT WARRANTS.

What are the powers of a constable regarding persons whom he finds committing offences?

What is the effect of an enactment using the word justified?

Define "found committing."

"Immediately."

"Pursuit after 3 hours."

Define a constable's powers of arrest at night.

Every constable is justified in arresting, without warrant, any person whom he finds committing an offence. (35 C. C.)

It not only protects the constable from punishment, but also affords him protection against a civil action.

Means seeing the party actually committing the offence or pursuing him immediately or continuously after he has been seen committing it there must be such fresh pursuit of him from his being seen and surprised in the act and his actual capture, that the finding, pursuit and capture may be held to constitute one transaction. "Immediately" means immediately after the commission of the offence, not immediately after the discovery of it. Pursuit after three hours would not be fresh pursuit. An offender seen in the commission of an offence by one person, may be arrested by a constable who did not see him, who joins immediately in pursuit.

Every constable is "justified" in arresting without a warrant any person whom he finds lying or loitering in any highway, yard or other place by night, and whom he has good cause to suspect of having committed or being about to commit any offence for which an offender may be arrested without a warrant. (36 C. C.)

(a) Can a constable arrest on his own suspicion?

(b) What is the safest and best course?

Should a constable arrest a man if he knows a warrant has been issued for him?

Can a constable arrest anyone who stands in his way or obstructs him?

Should anyone called upon to assist a constable in making an arrest, do so? What protection has he against action?

What are the warrants most commonly use?

How are warrants of committment for trial, remand, conviction, and in default of payment, executed?

(a) Yes. The law is, that any peace officer who, on reasonable and probable grounds, believes an indictable offence to have been committed is "justified" in arresting any person he believes has committed it, without warrant, whether such person is guilty or not. (35 C. C.)

(b) It is, however, much the safer course for the constable in all cases not requiring immediate interference, to obtain a magistrate's warrant before arresting an offender.

Yes, although he has not the warrant with him in his possession, he must be careful to notify the party why he is arrested. (40 C. C.)

Yes, he is justified in doing so. (168-169 C. C.)

When the law says so-and-so may be done, it is the duty of a constable to do it.

Yes, the law requires him to assist the constable and he enjoys the same protection as the constable.

WARRANTS.

- 1 To apprehend.
 - 2 To search.
 - 3 Distress.
 - 4 Commitment for trial.
 - 5 Commitment on remand.
 - 6 Commitment conviction.
 - 7 Commitment default of payment
- 1 By delivering the person committed, together with the warrant to the keeper of the gaol named therein, together with his property, if any, and obtaining the gaoler's receipt for the prisoner and his effects.

What is the constable's first duty on receiving a warrant to execute?

Read it over carefully, see that it is signed and sealed. If any defect is found, take it to the Justice who issued it for correction.

WARRANT TO APPREHEND.

What sections of the code refer to warrants?

Nos. 653 to 667 and 711 to 713.

What are the essentials of a warrant to arrest?

Must be under the hand and seal of the Justice.

If name of offender is unknown, the warrant must so state, and a description of him given, i. e., "*body of man unknown, described as follows:*"

It shall state the matter of the information or complaint on which it is founded.

How long does a warrant to apprehend remain in force?

Until it is executed. (C. C. 660.)

Can a warrant be issued and executed on Sunday or statutory holiday.

Yes. (C. C. 661), and by night or day. (4 Russell 110.)

Can a constable break open doors to execute his warrant?

He may break open an outer or inner door, or both, of any place where the accused is suspected to be. But before doing so, must make reasonable demand for admittance, explain who he is and his business. (1 Burns' justice, 275.)

Where can a warrant be executed?

Within the territorial jurisdiction of the Justice issuing.

Can a warrant be executed within an adjoining province or territory?

Yes. In case of "fresh pursuit" within seven miles from its boundary. (C. C. 661.)

(This would not apply to foreign territory.)

If accused cannot be found in the province or district in which warrant

May take warrant to a J. P. in any district in Canada, where accused is suspected to be, and have

was issued, what action should the constable take

What is necessary before a warrant is backed?

What is the constable's duty upon effecting an arrest under a warrant?

In what cases is it necessary that a copy of a warrant to arrest shall be served on the person?

After executing a warrant to arrest, what endorsement does the constable place on it?

What action is the constable justified in taking to prevent escape by flight from arrest?

What is a constable protected from criminal responsibility in doing to prevent escape or rescue after arrest?

it "backed," or endorsed. See *Crim. Code* 662, Form 8.

The constable is sworn by the Justice, his evidence taken that the name of the Justice subscribed to the warrant, is of the handwriting of the said Justice. The warrant is then "backed" as per Form 8, *Crim. Code*.

NOTE.—Before proceeding the constable should satisfy himself that the signature to the warrant is that of the Justice, so as to be in a position to make the necessary deposition before it can be "backed."

As soon as practicable to bring the accused before the justice who issued it, or some other justice of the same district, whether in the province where the arrest took place, or, in any part of Canada. (*C. C.* 664.)

When a warrant is issued in the first instance against a person for an offence punishable under (part 15) summary convictions. (*C. C.* 711.)

He certifies that he has executed the within warrant, giving the place, time and date, and signs the same.

* On using such force as may be necessary to prevent his escape by such flight unless such escape can be prevented by reasonable means in a less violent manner. (41 *C. C.*)

If the offence is an indictable one, he is protected from criminal responsibility in using such force in order to prevent the rescue or escape of the person arrested as he believes on reasonable grounds to be necessary for the purpose. (44 *C. C.*)

In case of an arrest for an offence, what are a constable's powers?

What happens if the constable in good faith arrests the wrong party?

What is meant by the expression criminal responsibility?

He is protected from criminal responsibility in using such force as may be necessary to prevent his escape, unless such escape can be prevented by reasonable means in a less violent manner, provided such force is neither intended nor likely to cause death or grievous bodily harm. (43 C. C.)

If he does so on reasonable and probable grounds that he is the person named in the warrant, he is protected from criminal responsibility in the same manner as if it had been the person named in the warrant.

The constable is free from punishment, but might be liable to a civil action for damages.

ARRESTING ON A TELEGRAM.

Describe the method of procedure in arresting on telegrams.

On receiving a telegram from another official or some reputable person, if it is an indictable offence and the telegram says a warrant has been issued, the constable should make the arrest. In case of doubt as to the authenticity of the telegram, repeat it back to the sender. If it is merely an offence that has been committed, the constable should not arrest on a telegram, but shadow the accused and wire the proper person to come on with warrant. An arrest should not be made on a telegram from the United States.

DUTIES AFTER ARREST.

(a) What are a constable's duties after arrest?

(b) How should the prisoner be treated?

(a) He should first warn the prisoner that anything he says will be used as evidence against him. He should search the prisoner for weapons and anything connected with the crime. He is not justified in taking anything else from him at that time, unless it is something that might facilitate escape. In cases where the constable is in charge of cells, the prisoner should be thoroughly searched and his property listed in the presence of a third party. If the prisoner be a female, a woman should be employed to search. Get the prisoner to sign the list as correct. The constable should take his prisoner within a reasonable time before a Justice, not later than noon of the following day if the arrest is effected in the p.m. (b) Prisoners awaiting trial, or committed for trial should be treated with consideration and no greater severity than is necessary to prevent his escape. Sentenced prisoners are allowed no privileges.

HANDCUFFING.

What is the rule as to handcuffing?

Constables are not only justified, but are bound to take all reasonably requisite measures for preventing the escape of those persons they have in custody, but what reasonable measures are, depends entirely upon the temper and conduct of the person in custody, and the nature of the charge. Each case must be judged on its merits. Prisoners should always be handcuffed while getting on and off trains and in all cases of murder and heinous offences.

In whose custody is the prisoner before the J. P.?

A prisoner before a magistrate is still in the custody of the constable until he is discharged, bailed or committed to prison.

What action should a constable take when he has arrested on suspicion and finds he is in error?

If sure his suspicion is wrong before the arrested person has been brought before a J. P., he should discharge him. If he has been before a J. P., the constable should at once communicate with the J. P., with a view to having the person at once discharged.

WARRANTS TO SEARCH.

How is a search warrant obtained?

By laying an information or complaint under oath before a J. P. Form 1 C. C., schedule. In the case of a gaming-house (sec. 641 C. C.), a report in writing to a Justice or other having jurisdiction.

For what purpose are they issued?

- (1.) To recover stolen property.
- (2.) Secure the implements which have been used in the commission of crime.
- (3.) Obtain possession of anything which has been the subject of an offence, or which may afford evidence to bring it home to the guilty party. (Code 629.)

(4.) Search for women in house of ill-fame. (C. C. 640.)

(5.) Search in gaming-house. (C. C. 641.)

Nos. 629 to 643.

Form of information, No. 1 C. C.

Form of search warrant, No. 2 C. C.

Form of order and application for same to search gaming-house; see under "*Gaming House*," this manual, page 118.

What sections of the Criminal Code refer to search warrants?

What must a search warrant state?

1. Particular place where search is to be made.
2. Nature of offence committed.
3. That things to be searched for relate thereto.
4. That there are reasonable grounds (stating what) for believing the things are in the place stated.

(See under "definitions" for meaning of place.)

When shall a search warrant be executed?

Between the hours directed by the Justice in the warrant.

What disposition does the constable make of goods seized under a search warrant?

He will take them to the Justice who issued the warrant. C. C. 629.

Can a search warrant be executed on a Sunday or statutory holiday.

Yes. C. C. 661.

WARRANTS OF DISTRESS.

What is a warrant of distress usually issued for?

To compel payment of a penalty or costs, and payment of a debt or duty. (739 to 747 C. C.)

How should a warrant of distress be executed?

Constable should not take a portion on account of any distress and must not levy for less than the amount mentioned. He cannot break into a man's house, but can enter where he finds the door open, he should knock as he enters to give notice. Once legally in he can break inner doors and if necessary break outer doors to get out. He should not distrain for more than enough to cover amount. The goods distrained should be immediately removed to a convenient place. They cannot be impounded on the man's property.

What should a constable do if the person pays or tenders him the sum or sums together with cost of execution?

What is done when the constable can find no goods?

What sections of the Criminal Code refer to distress warrants?

Immediately cease to execute same. (747 C. C.)

He returns warrant endorsing that fact on it (see form under "Distress Warrants"), and then Justice issues his warrant of commitment.

739 to 747.

CONFESSIONS.

What is the rule regarding confessions?

What constitutes a confession that may be given as good evidence?

When will a confession not be admitted as good evidence?

Give example of inadmissible confession.

What course should be adopted by a constable in charge of a prisoner?

They may be given in evidence against the accused. (685 C. C.)

A free and voluntary confession of guilt made by a prisoner either in course of conversation with private individuals or under examination before a magistrate is admissible in evidence as perfectly legal and sufficient.

When it is extracted by an sort of threats or violence, or obtained by any direct or implied promises, however slight, or by the exertion of any undue influence.

Where constable said to accused, "I should be obliged to you if you would tell us what you know about it, and it will be best for you." Confession not allowed, and where constable said to accused, "You had better tell the truth, it may be better for you." Confession not allowed as evidence.

The accused having been duly warned at the time of his arrest, &c., the constable should allow him full liberty to choose for himself and should not endeavour to extort a

confession, but if the prisoner says anything, it is the constable's duty to listen and take notes. What the prisoner is heard to say to anyone in talking over the crime is good evidence; also anything he is heard muttering to himself.

INVESTIGATING CASES.

What steps would a constable take in a case of murder?

Endeavour to discover the instruments with which the offence was committed, portions of clothing, &c., or anything that would assist in tracing guilt. A close and careful examination of the scene, whether within or without doors should be made, and note taken of the exact state in which everything was found including any facts or circumstances that might be conceived to be of use in throwing light upon the occurrence. If a shoe print be left, care should be taken that it does not get defaced until a cast, or shape on paper taken. Should the boot or shoe be obtained from any party suspected it should not be placed in the print already made, but by the side, and the two compared carefully. All articles connected with the offence should be taken possession of. If any persons are suspected upon good grounds they should be arrested.

What should be done where a man is fatally wounded?

If the suspected person be arrested he should be taken into the presence of the dying man for identification. A Justice should be sent for to take the man's dying deposition. In case no J. P. can be got the constable

How must dying declarations be made in order to be good evidence at a trial?

must note carefully every word said by the dying man bringing in the accused, so that it will be good evidence against him.

1. At the time when they were made the declarant should have been in actual danger of death.

2. He should have had a full apprehension of his danger, and have had no expectation or hope of recovery.

3. Death must have ensued.

CORONERS.

What are a constable's duties towards a coroner regarding inquests?

Coroners are entitled to receive the assistance of the police at all their inquests, and protection in the execution of their office generally.

What is a constable's duty regarding making reports to a coroner?

When any dead body be found or any case of suspiciously sudden death, or of death attended with suspicious circumstances, or through culpable or negligent conduct, in any district, the police should give immediate notice to the coroner.

What facts should the reports contain?

If possible, the name of the deceased, the nature of the death and any circumstances that render an inquest necessary, also the name and address of the medical man, if any, who was in attendance immediately before the deceased died.

The coroner decides, not the police.

Who decides whether the inquest is necessary or not?

What are the duties of a constable who finds a dead body or who takes charge of a body which has died by violence or under suspicious circumstances?

So far as possible the constable should endeavour to preserve the body in the same position as when death occurred or when it was first discovered, and any papers or property found on searching the body of the deceased, also any weapon or

Can an inquest be held on Sunday?

What is the procedure regarding inquests?

What does the constable do with the precept or warrant?

What does the constable do at the inquest?

Is anyone exempt from serving on jury?

What are a coroner's powers by law?

instrument that might have been the means of death, the constable should produce at the inquest.

No. The jury may be empanelled and view the body, and an adjournment made until Monday. No inquest is legal where jury fail to view body.

The coroner issues his precept or warrant to the constable to summon a sufficient number of persons to attend and be sworn as jurors upon such inquest at the time and place specified in the precept, also summons for any necessary witnesses.

Returns it to the coroner with names of jurymen warned on back.

Assist, and is to obey all lawful orders of the coroner, keeps order, reads the opening proclamation, and as each jurymen answers and takes his seat when his name is called, the constable calls out the number, e.g., John Jones, "here," "one"; Thomas Smith, "here," "two"; and so on, he also reads the proclamation for witnesses and for adjournment, if necessary, and closing proclamation, (see under "Coroner's Constables.")

No one.

He can do all acts necessary to enable him to hold his inquest on the view of the body and he can break open doors to get at body, those who arrest him are guilty of a misdemeanour.

INFORMATIONS.

What is meant by laying an information or complaint?

Who can lay an information?

What are the important parts of an information?

Is to bring an accusation or charge before a J. P., against the person named therein, for some alleged breach of the law.

Anyone, who, upon reasonable or probable grounds, believes that any person has committed a breach of the law. (654 C. C.)

1. Name, residence and occupation of the prosecutor.

2. Name, residence and occupation of the accused. If name unknown, state fact and give description.

3. Place where offence was committed, to show that it is within jurisdiction of J. P.

4. Date or approximate date, on or about, or between such and such date will do, if it shows proceedings are begun on time.

5. Date of the laying of information.

6. Description of the offence. The words of the Code or Statute Ordinance should be closely followed.

7. Information should be sworn to and signed by informant. Complaints need not be sworn to, but should be signed.

How should the offence be described?

The statement of the offence should be distinct and free from ambiguity, should not be in the alternative as that he sold beer or ale, &c., must be for only one offence or matter.

What is the test of a legal information and complaint?

That if it be proved the accused must be guilty of an offence or matter within the Justice's jurisdiction. "Macguire," see Stating Offences. (Page 33 C. C.)

What is the practice in the force regarding informations and complaints?

It is customary for the police to lay informations in cases of discovered or reported crimes and in offences discovered by the police, but anything of the nature of complaints between neighbours or in cases of insane persons, the people aggrieved or most concerned should lay the information, the constable facilitating their doing so as much as possible. When in doubt, always let the aggrieved person lay it. N.B.—Be careful to see that the J. P. inserts the words, has reason to believe, and does believe.

JUSTICES' COURTS.

What is the procedure at Justices' Court.

The constable, upon the order of the J. P., declares the court open, and if he is acting as prosecutor, notifies the J. P. that he appears on behalf of the crown. If a summary case, the J. P. reads the charge and asks the accused whether he is "guilty" or "not guilty." In indictable offences, this question should not be asked, the J. P. merely taking the depositions and dismissing or committing for trial. If the prisoner pleads guilty, no evidence is taken. (721 C. C.) If not, the constable calls his witnesses, having previously arranged in the best order in which to call them so as to bring out the story in a connected way.

What should the prosecutor prove?

What is the best method for a more or less inexperienced man?

He should prove every fact alleged in the information.

Get the witness to tell his story to the court, watching carefully to see no important details are omitted.

Can a constable ask leading questions? i. e., a question which obviously suggests the answer wanted?

Does it matter if the witnesses disagree on minor points?

Are opinions evidence?

How should a constable sum up?

How should a constable give his own evidence?

What should a constable who has given evidence at a preliminary examination do?

What should a constable insist upon before signing his evidence.

No; unless his own witness proves contumacious, in which case he may ask leave to treat him as a hostile witness.

No; it is enough if they agree on all important points.

No; unless the witness is an expert in the matter in question, which fact must be first established before the witness' opinion is asked.

Simply add the evidence together and show that it goes to prove the charge completely.

In an absolutely truthful, unbiassed manner, telling all he knows, whether favourable or unfavourable to the accused, so as not to lay himself open to adverse criticism in telling more at say the trial than at the preliminary examination.

Take careful notes of his evidence so as to refresh his memory before repeating it at the trial, which may not be for some time.

That it should be read over carefully to him in order that he may correct any errors. If this is not done, he should refuse to sign it.

FEES.

Do members of the Force receive witness fees in crown cases?

What should a constable do regarding fees in summary cases?

Do members of the force charge mileage?

No.

In a summary case, he should make out a slip showing the fees legally due the R. N. W. M. P., and ask that in the event of a conviction or dismissal with costs against the defendant, that they be included. (770 C. C.)

No. Where the J. P. insists on giving it the constable should at once send it with a report of the case, to his commanding officer, so that it can be deposited to the credit of the receiver general.

